

# CERT

## STATE OF CALIFORNIA - OFFICE OF ADMINISTRATIVE LAW NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 7-90)

(See instructions on reverse)

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER	PREVIOUS REGULATORY ACTION NUMBER
		90-0917-02C		90-0516-02E
For use by Office of Administrative Law (OAL) only				
NOTICE		REGULATIONS		
AGENCY		AGENCY FILE NUMBER (if any)		
STATE DEPARTMENT OF SOCIAL SERVICES		0490-14		

1990 SEP 17 PM 4:51  
OFFICE OF  
ADMINISTRATIVE LAW  
ENDORSED  
APPROVED FOR FILING  
OCT - 2 1990  
Office of Administrative Law

FILED  
In the office of the Secretary of State  
of the State of California

OCT 02 1990

409 P.M.  
MARCH LING ELLIOTT, Secretary of State  
By: Michael K. Williams  
Deputy Secretary of State

### A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER
OAL USE ONLY	ACTION ON PROPOSED NOTICE		NOTICE REGISTER NUMBER	PUBLICATION DATE
	<input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn			

### B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

#### 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

SECTIONS AFFECTED	ADOPT	63-095
	AMEND	63-501.3(k) and 63-502.2(1)
	REPEAL	None.
TITLE(S) MPP		

#### 2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346)  
☐ Resubmittal  
☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)  
☐ Emergency (Gov. Code, § 11346.1(b))  
☒ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.  
☐ Print Only  
☐ Other (specify) \_\_\_\_\_

#### 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 4.4 and 4.5)

Not Applicable.

#### 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State  
☒ Effective on filing with Secretary of State  
☐ Effective other (Specify) \_\_\_\_\_

#### 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399)  
☐ Fair Political Practices Commission  
☐ State Fire Marshal  
☐ Other (Specify) \_\_\_\_\_

#### 6. CONTACT PERSON

Rosalie Clark, Chief, Regulations Development Bureau

TELEPHONE NUMBER  
916/445-0313

7. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE  
Linda S. McMahon

DATE  
9/13/90

TYPED NAME AND TITLE OF SIGNATORY

LINDA S. McMAHON, Director

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 7-80) (REVERSE)

INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READoption**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

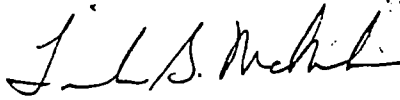
DELEGATED AUTHORITY ORDER

I hereby authorize and designate the following individuals as the agency contact persons who have authority, during the Office of Administrative Law review period, to make decisions and answer questions regarding regulations adopted by the Department of Social Services.

Rosalie P. Clark, Chief  
Regulations Development Bureau

James Rhoads, Assistant Chief  
Regulations Development Bureau

This designation shall be effective on 8-26-88, 1988 and shall remain in effect until superseded or cancelled.

  
Linda S. McMahon  
Director

8-26-88  
Date

63-095 IMPLEMENTATION OF RESOURCE AND INCOME  
EXCLUSIONS FOR AGENT ORANGE SETTLEMENT  
FUND PAYMENTS (PUBLIC LAW 101-201)

63-095

- .1 Effective June 1, 1990, the CWDs shall implement the amended provisions in Sections 63-501.3(k) and 63-502.2(1) for all new food stamp applications and continuing cases. Affected households are entitled to restored benefits back to the date of the denial, underissuance or January 1, 1989, whichever occurred later. Restoration shall be made in accordance with Section 63-802, except that the 12-month limit for restoring benefits shall not apply.
- .2 For continuing cases and any household entitled to restored benefits, these provisions shall be implemented and appropriate restoration of benefits made:
  - .21 Upon request by the household;
  - .22 At recertification;
  - .23 When the case is next reviewed; or
  - .24 When the CWD becomes aware that a review is needed, whichever occurs first.

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Public Law 101-201.



.3 Exclusions from Resources

In determining the resources of a household, only the following shall be excluded: (Continued)

(k) Resources which are excluded for food stamp purposes by federal statute. The following is a listing of some of the resources excluded by federal statute:  
(Continued)

- (15) Payments received from the Agent Orange Settlement Fund or any other fund established to settle liability claims by veterans or survivors of deceased veterans concerning Agent Orange under the Agent Orange Compensation Act of 1989 (Public Law 101-201).

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Public Law 101-201.

.2 Income Exclusions. Only the following items shall be excluded from household income: (Continued)

(a) through (k) [Continued]

- (1) Any income that is specifically excluded by any other federal statute from consideration as income for the purpose of determining eligibility for the Food Stamp Program. The following is a listing of some of the types of income excluded by federal statute:  
(Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Public Law 101-201.

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

FILED  
In the Office of the Secretary of State  
of the State of California


OCT 02 1990

409  
MARGARET NG ELL  
By Michael G. Williams  
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the City of Sacramento, State of California.

Submitting Agency: Social Services

OAL File No: 90-0917-02

  
JOHN SMITH  
CHIEF COUNSEL

10/02/90

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 7-90)

OAL FILE  
NUMBERSNOTICE FILE NUMBER  
Z89-0915-01

REGULATORY ACTION NUMBER

EMERGENCY NUMBER

PREVIOUS REGULATORY ACTION NUMBER

For use by Office of Administrative Law (OAL) only

NOTICE

AGENCY

State Department of Social Services

REGULATIONS

AGENCY FILE NUMBER (if any)

0789-24

**FILED**  
In the office of the Secretary of State  
of the State of California

OCT 26 1990

At 4:46 o'clock P. M.  
MARCH FONG EU, Secretary of State

By: *[Signature]*  
Deputy Secretary of State

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)		FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER		
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER		PUBLICATION DATE	

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

## 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

SECTIONS AFFECTED 22	ADOPT
	AMEND
	Division 6, Sections 80001, 80078, 87101, and 87582
TITLE(S)	REPEAL

## 2. TYPE OF FILING

☒ Regular Rulemaking (Gov. Code, § 11346)  
☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.  
☐ Print Only  
☐ Resubmittal  
☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)  
☐ Emergency (Gov. Code, § 11346.1(b))

## 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 4.1 and 4.5)

August 7, 1990 to August 22, 1990

## 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☒ Effective 30th day after filing with Secretary of State  
☐ Effective on filing with Secretary of State  
☐ Effective other (Specify)

## 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

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☐ Fair Political Practices Commission  
☐ State Fire Marshal

## 6. CONTACT PERSON

TELEPHONE NUMBER  
445-0313

Rosalie Clark, Chief, Regulations Development Bureau

7. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

TYPED NAME AND TITLE OF SIGNATORY

Linda S. McMahon, Director

DATE

7-18-90

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

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## ALL FILINGS

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## NOTICES

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## NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

## CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

## EMERGENCY REGULATIONS - READOPTION

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If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.



Amend Section 80001 to read:

80001        DEFINITIONS

80001

(a) (Continued)

(51) "Transfer Trauma" means the consequences of the stress and emotional shock caused by an abrupt, involuntary relocation of a client or resident from one facility to another.

(5~~1~~2) through (5~~3~~4) (Continued)

Authority Cited: Sections 1502.2 and 1530, Health and Safety Code.

Reference: Sections 1501, 1502, 1502.2, 1503, 1503.5, 1505, 1507, 1508, 1509, 1511, 1520, 1522, 1524, 1525, 1525.5, 1526, 1527, 1529, 1530, 1530.5, 1531, 1533, 1534, 1536.1, 1537, 1538.5, 1550, 1551, 1556 and 11834.11, Health and Safety Code; and Section 11006.9, Welfare and Institutions Code.

Amend Section 80078 to read:

80078      RESPONSIBILITY FOR PROVIDING CARE AND  
SUPERVISION (Continued)

80078

- (b) Except as provided in Section 80078(b)(6)(A), in any instance where the Department does not suspend the facility license and the licensing agency requires that a client/resident be relocated because the client/resident has a health condition(s) which cannot be cared for within the limits of the license of the facility or which requires inpatient care in a licensed health facility the licensee shall prepare a written relocation plan. The plan shall contain all necessary steps to be taken to reduce stress to the client/resident which may result in transfer trauma.
- (1) The written relocation plan shall include, but not be limited to the following:
- (A) A specific date for beginning and a specific date for completion of the process of safely relocating the client/resident. The time frame for relocation may provide for immediate relocation but shall not exceed 30 days.
  - (B) A specific date when the client/resident and the client's/resident's authorized representative, if any, shall be notified of the need for relocation.
  - (C) A specific date when consultation with the client's/resident's physician shall occur to obtain a current medical assessment of the client's/resident's health needs, to determine the appropriate facility type for relocation and to ensure that the client's/resident's health care needs continue to be met at all times during the relocation process.
  - (D) The method by which the licensee shall participate in the identification of an acceptable relocation site with the client/resident and the authorized representative, if any. The licensee shall advise the client/resident and/or the authorized representative that if the client/resident is to be moved to another nonmedical community care facility, a determination must be made that the

client's/resident's needs can be legally met in the new facility before the move is made. If the client's/resident's needs cannot be legally met in the new facility, the client/resident must be moved to a facility licensed to provide the necessary care.

- (E) A list of contacts made or to be made by the licensee with community resources, including but not limited to, social workers, family members, Long Term Care Ombudsman, clergy and others as appropriate to ensure that services are provided to the client/resident before, during and after the move. The need for the move shall be discussed with the client/resident and the client/resident assured that support systems will remain in place.
- (F) Measures to be taken until relocation to protect the client/resident and/or meet the client's/resident's health and safety needs.
- (G) An agreement to notify the licensing agency when the relocation has occurred, including the client's/resident's new address, if known.
- (2) The relocation plan shall be submitted in writing to the licensing agency within the time set forth in the written notice by the licensing agency that the client/resident requires health services that the facility cannot legally provide.
- (3) Any changes in the relocation plan shall be submitted in writing to the licensing agency. The licensing agency shall have the authority to approve, disapprove or modify the plan.
- (4) If relocation of more than one (1) client/resident is required, a separate plan shall be prepared and submitted in writing for each client/resident.
- (5) The licensee shall comply with all terms and conditions of the approved plan. No written or oral contract with any other person shall release the licensee from the responsibility specified in Sections 80078(b) and (c) for relocating a client/resident who has a health condition(s) which cannot be cared for in the facility and/or requires inpatient care in a licensed health facility, nor from taking all necessary actions to reduce stress to the client/resident.

- (6) In cases where the licensing agency determines that the resident is in imminent danger because of a health condition(s) which cannot be cared for in the facility or which requires inpatient care in a licensed health facility, the licensing agency shall have the authority to order the licensee to immediately relocate the resident.
- ~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~

(c) In all cases when a client or resident must be relocated, the licensee shall not obstruct the relocation process and shall cooperate with the licensing agency in the relocation process. Such cooperation shall include, but not be limited to, the following activities:

- (1) Identifying and preparing for removal of the medications, Medi-Cal or Medicare or other medical insurance documents, clothing, safeguarded cash resources, valuables and other belongings of the client or resident.
- (2) Contacting the authorized representative of the client/resident to assist in transporting him or her, if necessary.
- (3) Contacting other suitable facilities for placement, if necessary.
- (4) Providing access to client's/resident's files when required by the Department.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1511, 1528, ~~and~~ 1531 and 1556, Health and Safety Code.

Amend Section 87101 to read:

87101        DEFINITIONS

87101

(a) (Continued)

(48) Transfer trauma. "Transfer trauma" means the consequences of the stress and emotional shock caused by an abrupt, involuntary relocation of a resident from one facility to another.

(~~489~~) through (~~501~~) (Continued)

Authority Cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.2, 1569.5, 1569.10, 1569.145, 1569.15, 1569.157, 1569.17, 1569.19, 1569.20, 1569.21, 1569.30, 1569.312, 1569.44, 1569.47, 1569.54 and 1569.82, Health and Safety Code.



Amend Section 87582 to read:

87582      ACCEPTANCE AND RETENTION LIMITATIONS  
(Continued)

87582

- (e) Except as provided in Section 87582(e)(6)(A), in any instance where the Department does not suspend the facility license and the Department requires that a resident be relocated because the resident has a health condition(s) which cannot be cared for within the limits of the license of the facility or which requires inpatient care in a licensed health facility the licensee shall prepare a written relocation plan. The plan shall contain all necessary steps to be taken to reduce stress to the resident which may result in transfer trauma.
- (1) The written relocation plan shall include, but not be limited to the following:
- (A) A specific date for beginning and a specific date for completion of the process of safely relocating the resident. The time frame for relocation may provide for immediate relocation but shall not exceed 30 days.
  - (B) A specific date when the resident and the resident's responsible person, if any, shall be notified of the need for relocation.
  - (C) A specific date when consultation with the resident's physician shall occur to obtain a current medical assessment of the resident's health needs, to determine the appropriate facility type for relocation and to ensure that the resident's health care needs continue to be met at all times during the relocation process.
  - (D) The method by which the licensee shall participate in the identification of an acceptable relocation site with the resident and the responsible person, if any. The licensee shall advise the resident and/or the responsible person that if the resident is to be moved to another residential care facility for the elderly, a determination must be made that the resident's needs can be legally met in the new facility before the move is made. If the resident's needs cannot be legally met in the new facility, the resident must be moved to a facility licensed to provide the necessary care.

- (E)    A list of contacts made or to be made by the licensee with community resources, including but not limited to, social workers, family members, Long Term Care Ombudsman, clergy, Multipurpose Senior Services Programs and others as appropriate to ensure that services are provided to the resident before, during and after the move. The need for the move shall be discussed with the resident and the resident assured that support systems will remain in place.
- (F)    Measures to be taken until relocation to protect the resident and/or meet the resident's health and safety needs.
- (G)    An agreement to notify the Department when the relocation has occurred, including the resident's new address, if known.
- (2)    The relocation plan shall be submitted in writing to the Department within the time set forth in the written notice by the Department that the resident requires health services that the facility cannot legally provide.
- (3)    Any changes in the relocation plan shall be submitted in writing to the Department. The Department shall have the authority to approve, disapprove or modify the plan.
- (4)    If relocation of more than one (1) resident is required, a separate plan shall be prepared and submitted in writing for each resident.
- (5)    The licensee shall comply with all terms and conditions of the approved plan. No written or oral contract with any other person shall release the licensee from the responsibility specified in Sections 87582(e) and (f) for relocating a resident who has a health condition(s) which cannot be cared for in the facility and/or which requires inpatient care in a licensed health facility, nor from taking all necessary actions to reduce stress to the resident.

(6) In cases where the Department determines that the resident is in imminent danger because of a health condition(s) which cannot be cared for in the facility or which requires inpatient care in a licensed health facility, the Department shall order the licensee to immediately relocate the resident.

(A) No written relocation plan is necessary in cases of immediate relocation.

(f) In all cases when a resident must be relocated, the licensee shall not obstruct the relocation process and shall cooperate with the Department in the relocation process. Such cooperation shall include, but not be limited to, the following activities:

(1) Identifying and preparing for removal of the medications, Medi-Cal or Medicare or other medical insurance documents, clothing, safeguarded cash resources, valuables and other belongings of the resident.

(2) Contacting the person responsible for the resident to assist in transporting him or her, if necessary.

(3) Contacting other suitable facilities for placement, if necessary.

(4) Providing access to resident's files when required by the Department.

Authority Cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1250, 1569.1, 1569.2, 1569.30, 1569.31, ~~and~~ 569.312 and 1569.54, Health and Safety Code.

OFFICE OF ADMINISTRATIVE LAW

**FILED**  
In the office of the Secretary of State  
of the State of California

CERTIFICATION

OF

APPROVAL

OCT 26 1990

At 4:46 o'clock P.M.  
MARCH FONG EU, Secretary of State

By: *[Signature]*  
Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the City of Sacramento, State of California.

Submitting Agency: Social Services  
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OAL File No: 90-0926-02  
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*[Signature]*  
\_\_\_\_\_  
JOHN D. SMITH  
Director

10/26/90  
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# STATE OF CALIFORNIA - OFFICE OF ADMINISTRATIVE LAW

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See Instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 7-90)

OAL FILE NUMBERS	NOTICE FILE NUMBER 90-0620-01E 2-90-0618-01	REGULATORY ACTION NUMBER 90-1002-01C	EMERGENCY NUMBER 90-0620-01E	PREVIOUS REGULATORY ACTION NUMBER
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For use by Office of Administrative Law (OAL) only

1990 OCT -2 AM 10:16

OFFICE OF  
ADMINISTRATIVE LAW

ENDORSED  
APPROVED FOR FILING

NOV - 1 1990

Office of Administrative Law

**FILED**  
In the office of the Secretary of State  
of the State of California

NOV 01 1990

At 339 o'clock P.M.

MARCH FONG EU, Secretary of State

By Michele K. Williams  
Deputy Secretary of State

NOTICE	REGULATIONS
AGENCY STATE DEPARTMENT OF SOCIAL SERVICES	AGENCY FILE NUMBER (if any)

### A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	ACTION ON PROPOSED NOTICE	NOTICE REGISTER NUMBER	PUBLICATION DATE

### B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

#### 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

SECTIONS AFFECTED	ADOPT 63-096
	AMEND 63-501.3 and 63-502.2
TITLE(S) MPP	REPEAL

#### 2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346)

☐ Resubmittal

☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)

☐ Emergency (Gov. Code, § 11346.1(b))

☒ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only

☐ Other (specify)

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 4.4 and 45)  
N/A

#### 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State

☒ Effective on filing with Secretary of State

☐ Effective other (Specify)

#### 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☒ Department of Finance (Form STD. 399)

☐ Fair Political Practices Commission

☐ State Fire Marshal

☐ Other (Specify)

6. CONTACT PERSON  
Rosalie Clark, Chief, Regulations Development Bureau

TELEPHONE NUMBER  
445-0313

7. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Linda S. McMahon

DATE

9-21-90

TYPED NAME AND TITLE OF SIGNATORY

Linda S. McMahon, Director



## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 7-90) (REVERSE)

INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

## ALL FILINGS

Enter the agency name and agency file number, if any.

## NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

## REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN  
REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

## EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

## NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

## CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

## EMERGENCY REGULATIONS - READoption

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Adopt new Section 63-096 to read:

63-096 IMPLEMENTATION OF RESOURCE AND INCOME EXCLUSIONS 63-096  
FOR STUDENT FINANCIAL ASSISTANCE RECEIVED UNDER  
BUREAU OF INDIAN AFFAIRS (BIA) STUDENT ASSISTANCE  
PROGRAMS P.L. 100-50

- .1 Sections 63-501.3(k)(12), 502.2(e)(5), 502.2(e)(5)(A)(ii), 502.2(e)(5)(C), ~~502.2(g)(1)(F), 502.2(g)(2)(B), and 63-502.2(1)(4)~~, as amended herein, shall become effective July 1, 1990.
- .2 These amended or adopted provisions in Section 63-096 shall be implemented as follows:
  - .21 Beginning July 1, 1990, the CWDs shall implement the amended or adopted provisions for all new food stamp applications.
  - .22 For continuing cases and any households entitled to restored benefits, these provisions shall be implemented and appropriate restoration of benefits made upon request by the household, at recertification, when the case is next reviewed, or when the CWD becomes aware that a review is needed, whichever occurs first. Restored benefits are to be provided back to the date of application or August 1, 1987, whichever occurred later.
  - .23 For a household that applied for benefits from August 1, 1987 until July 1, 1990 and was denied, the household is entitled to restored benefits back to August 1, 1987 or date of application, whichever occurred later, if the household: (1) is otherwise entitled to benefits and (2) requests a review of its case or the CWD becomes aware a review is needed.

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: P.L. 100-50, Sections 22(e)(4) and 14(27), enacted June 3, 1987.

Amend Section 63-501.3 (K) to read:

63-501 RESOURCE DETERMINATIONS (Continued)

63-501

.3 Exclusions from Resources (Continued)

In determining the resources of a household, only the following shall be excluded:

(a) through (j) (Continued)

(k) (1) through (11) (Continued)

(12) Financial assistance provided by a program funded in whole or in part under Title IV of the Higher Education Act (as amended by Public Law 99-498) and/or under the Bureau of Indian Affairs Student Assistance Programs, (pursuant to Public Law 100-50).

(13) through (15) (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference P.L. 100-50, Sections 22(e)(4) and 14(27), enacted June 3, 1987.

Amend Section 63-502.2 to read:

63-502 INCOME, EXCLUSIONS AND DEDUCTIONS (Continued) 63-502

.2 Income Exclusions. Only the following items shall be excluded from household income: (Continued)

(a) through (d) (Continued)

(e) through (e) (4) (Continued)

- (5) Portions of financial assistance (payments, loans, reimbursements or allowances) funded in whole or in part under Title IV of the Higher Education Act of 1965 (as amended by Public Law 99-498), and/or under the Bureau of Indian Affairs (BIA) Student Assistance Programs (pursuant to Public Law 100-50), provided to students attending an institution of post-secondary education as defined in Section 63-502.2 (e) (1) on at least a half-time basis, shall be excludable. Only the assistance intended to be used for tuition, mandatory school fees, books, supplies, transportation and miscellaneous personal expenses (other than room, board and/or dependent care) related to the cost of attendance at the educational institution shall be excluded.

(A) (Continued)

(i) (Continued)

(ii) Educational assistance received is from a program funded in whole or in part under Title IV of the Higher Education Act, and/or under the Bureau of Indian Affairs Student Assistance Programs.

(iii) (Continued)

(B) (Continued)

(C) Excludable expenses claimed by the student shall not exceed the value of the total amount of educational assistance granted from a program funded under Title IV of the Higher Education Act and/or under the Bureau of Indian Affairs Student Assistance Programs.

(f) (Continued)

(g) (Continued)

(1) (Continued)

(A) through (E) (Continued)

(F) Federal reimbursements to students provided by a program funded in whole or in part under Title IV of the Higher Education Act, and/or the Bureau of Indian Affairs Student Assistance Programs, to the extent that the verification requirements are met as specified in Section 63-502.2 (e) (5).

(2) (Continued)

(A) (Continued)

(B) Portions of any federal educational grant, scholarship, fellowship, veterans' educational benefit and the like to the extent they provide income assistance beyond that used for tuition and mandatory school fees as set forth in Section 63-502.2 (e). This provision does not apply to educational assistance provided by a program funded in whole or in part under Title IV of the Higher Education Act and/or the Bureau of Indian Affairs Student Assistance Programs, to the extent that the verification requirements are met as specified in Section 63-502.2 (e) (5).

(C) (Continued)

(h) through (k) (Continued)

(l) (Continued)

(1) through (3) (Continued)



(4) Federal educational assistance provided by a program funded in whole or in part under Title IV of the Higher Education Act and/or the Bureau of Indian Affairs Student Assistance Programs is excludable to the extent specified in Section 63-502.2(e) (5).

(5) (Continued)

Authority Cited: Sections 10554 and 18904, welfare and Institutions Code

Reference: P.L. 100-50, Sections 22(e)(4) and 14(27), enacted June 3, 1987.

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

**FILED**  
In the office of the Secretary of State  
of the State of California

NOV 01 1990

At 339 o'clock P M.

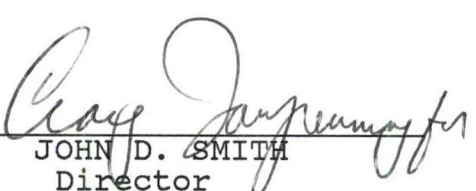
MARCH FONG EU, Secretary of State

By Michael Williams  
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the City of Sacramento, State of California.

Submitting Agency: Social Services

OAL File No: 90-1002-01

  
JOHN D. SMITH  
Director

11/01/90

**EMERGENCY**  
**NOTICE PUBLICATION/REGULATIONS SUBMISSION**(See instructions on  
reverse)

For use by Secretary of State only

STD. 400 (REV. 7-90)

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 90-1101-05E	PREVIOUS REGULATORY ACTION NUMBER
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For use by Office of Administrative Law (OAL) only

1990 NOV -1 PM 3 36

OFFICE OF  
ADMINISTRATIVE LAW  
ENDORSED  
APPROVED FOR FILING  
NOV 13 1990

Office of Administrative Law

**FILED**

In the office of the Secretary of State  
of the State of California

NOV 13 1990

At 4:25 o'clock P.M.

MARCH FONG EU, Secretary of State

By: Michele L. Williams  
Deputy Secretary of State

NOTICE

REGULATIONS

AGENCY

DEPARTMENT OF SOCIAL SERVICES

AGENCY FILE NUMBER (if any)

RDB #1090-49

**A. PUBLICATION OF NOTICE** (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE	

**B. SUBMISSION OF REGULATIONS** (Complete when submitting regulations)

## 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

SECTIONS AFFECTED	ADOPT
	AMEND 30-132, 30-162, 30-234, 30-252, 30-334, 30-342, 30-434, and 30-442
TITLE(S) MPP	REPEAL

## 2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☒ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify) \_\_\_\_\_

## 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

N/A

## 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State ☒ Effective on filing with Secretary of State ☐ Effective other (Specify) \_\_\_\_\_

## 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify) \_\_\_\_\_

## 6. CONTACT PERSON

ROSALIE CLARK, CHIEF, REGULATIONS DEVELOPMENT BUREAU

TELEPHONE NUMBER

445-0313

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Linda S. McMahon

DATE

11-1-90

TYPED NAME AND TITLE OF SIGNATORY

LINDA S. McMAHON, DIRECTOR

**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

STD. 400 (REV. 7-90) ( REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS**

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**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTON**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.


DELEGATED AUTHORITY ORDER

I hereby authorize and designate the following individuals as the agency contact persons who have authority, during the Office of Administrative Law review period, to make decisions and answer questions regarding regulations adopted by the Department of Social Services.

Rosalie P. Clark, Chief  
Regulations Development Bureau

James Rhoads, Assistant Chief  
Regulations Development Bureau

This designation shall be effective on 8-26-88, 1988 and shall remain in effect until superseded or cancelled.

  
Linda S. McMahon  
Director

8-26-88  
Date

Amend Sections 30-132.12, .2, and .22 to read:

30-132 RESPONSE TO REQUESTS AND REFERRALS

30-132

.1 The county welfare department shall respond to the following: (Continued)

.12 Any other referrals for service which allege that a child is endangered by abuse, neglect, or exploitation.

.121 The following referrals, after screening and in the absence of any additional risk element, are inappropriate for an emergency response assessment, as defined in Section 30-002(a)(4). An emergency response assessment on any of the following referrals may be appropriate if additional risk is present to the child.

(a) Abuse, neglect or lack of supervision in day care or other out-of-home facility (refer to the agency responsible for licensing the facility).

(b) Bruises with no evidence of abuse.

(c) Child is a runaway (refer to the appropriate law enforcement agency).

(d) Children not using seat belts or car seats in moving vehicles.

(e) Children six or over left unsupervised for two to three hours in the daytime or early evening where no clear and present danger can be cited.

(f) Custody issues.

(g) Death of a child where there are no other children in family.

(h) Dirty homes with only teenage minors.

(i) Drug/alcohol abuse of parents.

(j) Families or children that are reported as nuisances in the neighborhood.

- (k) Fetal abuse, acts or negligence affecting the unborn whether by the expectant mother or any other person, including substance abusing pregnant women.
- (l) Head lice (refer to the local public health agency).
- (m) History of childhood physical or sexual abuse of a child who is now an adult (refer to the appropriate law enforcement agency).
- (n) Homeless family/overcrowded housing.
- (o) Mandated reporters meeting their reporting responsibilities but indicating that no abuse has occurred.
- (p) Minors exhibiting behavior pursuant to Welfare and Institutions Code Sections 601 or 602.
- (q) Minors living apart from relatives.
- (r) Minors with mental health problems (refer to the local mental health agency).
- (s) Neglect cases which have been closed as unfounded or unsubstantiated within the previous month and there are no new allegations or evidence.
- (t) Sounds of children crying or being spanked with no indication of injury.
- (u) Parent-child conflict where there is no evidence of physical or sexual abuse.
- (v) Parents sleeping or bathing with children, considering age of child, sex and circumstances.
- (w) Past physical abuse which occurred over one year ago and there has been no evidence of subsequent physical abuse.



- (x) Physical or sexual abuse referrals which have already been investigated and there are no new allegations or evidence.
- (y) Pregnancy, in and of itself, of a minor.
- (z) Reasonable and age-appropriate spanking, as defined in Welfare and Institutions Code Section 300(a), to the buttocks where there is no evidence of serious physical injury.
- (aa) Repeated unfounded or unsubstantiated referrals from the same reporter.
- (bb) Sibling physical abuse, unless parent demonstrates negligence through inability or unwillingness to protect the child victim.
- (cc) Spousal abuse only (refer to the local domestic violence shelter).
- (dd) Teenager is beyond parental control.
- (ee) Teenagers where there is a report of general neglect to a child who is not physically or developmentally disabled.
- (ff) Teenagers where there is a report of physical abuse with no evidence of significant physical harm to the child.
- (gg) Truancy/lack of school attendance (refer to the appropriate school district).
- (hh) Third party physical or sexual abuse and the parent can protect the child (refer to the appropriate law enforcement agency).
- (ii) Unreliable complaints, e.g., details given by the reporter are contradictory.
- (jj) Unsupervised teens disturbing the neighborhood (refer to the appropriate law enforcement agency).



(kk) Vague or general information.

HANDBOOK BEGINS HERE

(1) Examples of vague or general information include "The house is dirty," "I think the child was molested," or "The children are abused," with no credible reason to suspect abuse or neglect.

HANDBOOK ENDS HERE

(ll) Verbal abuse only.

.2 Emergency response staff shall immediately assess all referrals, excluding the referrals specified in Section 30-132.121, to determine whether an in-person response is required. (Continued)

.22 The decision whether or not to make an in-person response for all other referrals shall be based on an assessment which shall include collateral contacts, a review of previous referrals and other relevant information to the extent such information or measures are necessary to conduct an assessment.

.221 This assessment shall include, but not be limited to, consideration of the following factors:

HANDBOOK BEGINS HERE

(a) The information provided in the referral describes a situation as defined in 30-002(a) abuse, (b) exploitation, or (c) neglect.

(b) When the alleged incident of abuse occurred.

HANDBOOK ENDS HERE

(a) The information provided in the referral describes a situation as defined in Sections 30-002a.(1) abuse, 30-002e.(2) exploitation, or 30-002n. neglect.

(b) Credibility of reporter.

- (d) Relationship and access of alleged perpetrator to the child.
- (e) History and disposition of prior referrals.
- (e) Items that are considered to increase the risk of danger to the child which include, but are not limited to:
- (1) The severity of the injury.
  - (2) When the alleged incident(s) of abuse occurred.
  - (3) How frequently the alleged incident(s) of abuse occurs.
  - (4) The age of the child. Younger children shall be considered at higher risk.
  - (5) The inability or unwillingness of the parent/caretaker to cooperate with the emergency response worker.
  - (6) The social isolation or lack of support systems for the parent/caretaker and/or child.
  - (7) The location of the injuries.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 16501.1, Welfare and Institutions Code.

Amend Section 30-162.11 to read:

30-162 CASE MANAGEMENT

30-162

.1 For each child receiving emergency response services, the social worker shall:

.11 Have face-to-face contact with the child at least three times in the first 21/calendar days, ~~after the initial response~~ except as specified in Section 30-162.111.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553, 16501.1, and 16504, Welfare and Institutions Code.

Amend Section 30-234.5 to read:

30-234 SERVICE PLAN (Continued)

30-234

.5 All initial service plans shall have signed and dated, written approval of the family maintenance social worker's supervisor within the 37-calendar day time frame specified for completion of the plan. The supervisor's approval shall document the following:

.51. The appropriateness of having an open case, including eligibility and need for services.

.52 A determination of the actions that would be necessary to close the case including the identification and closure of any cases that are inappropriate pursuant to Section 30-132.121.

.53 A review of the current risk based on the child's age and severity of the original allegation. This review shall include the status of the original allegation and an identification of any new allegations which would necessitate a change in the case plan.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 16501.1(b), 16506, and 16506.1, Welfare and Institutions Code.

Amend Section 30-252.1 to read:

30-252 CASE MANAGEMENT

30-252

.1 For each child receiving family maintenance services, the social worker shall:

.11 Have face-to-face contact with the child at least twice every 30 calendar days during the first 90 calendar days the case is open, and at least once a month thereafter, except as specified in Section ~~30-252.111~~ ~~which shall read~~ 30-252.12.

~~.112 The social worker shall be~~ Be permitted to have less frequent face-to-face contact, up to a minimum of once each month, ~~only if all of the following criteria in Sections 30-252.121 or .122 are met.~~

.121 All of the following exist:

(a) (Continued)

(b) (Continued)

(c) The social worker schedules his/her contacts with the child so that such contacts, in combination with those made by the persons specified in Sections 30-252.121(b)(1) through (3), ensure that the child receives face-to-face contact at least twice every 30 calendar days during the first 90 calendar days the case is open, as specified in Section 30-252.11.

(d) (Continued)

(e) (Continued)

.122 The case is being transferred to the family maintenance program from the family reunification program or the permanent placement program and the case plan accompanying the transfer indicates that there is no need for face-to-face contact more often than once a month.

.123 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553, ~~and~~ 16506, and 16506.1, Welfare and Institutions Code.

Amend Section 30-334.4 to read:

30-334 SERVICE PLAN (Continued)

30-334

.4 All initial service plans shall have signed and dated, written approval of the family reunification social worker's supervisor within the 37-calendar day time frame specified for the completion of the plan. The supervisor's approval shall document the following:

.41 The appropriateness of having an open case, including eligibility and need for services.

.42 A determination of the actions that would be necessary to close the case including the identification and closure of any cases that are inappropriate pursuant to Section 30-132.121.

.43 A review of the current risk based on the child's age and severity of the original allegation. This review shall include the status of the original allegation and an identification of any new allegations which would necessitate a change in the case plan.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11404(b)(3), 16501.2, 16507, and 16507.1, Welfare and Institutions Code.

Amend Sections 30-342.311(c) and (d), and .51 to read:

30-342 PLACEMENT CASE MANAGEMENT (Continued)

30-342

.3 For each child in placement the social worker shall:

.31 Have face-to-face contact at least monthly.

.311 The social worker shall be permitted to have less frequent face-to-face contact, up to a minimum of once each quarter, only if all of the following criteria are met. (Continued)

(c) The case record documents the existence of at least one of the following circumstances:

(1) (Continued)

(2) The child is placed with a foster parent who has provided continuous care for the child for a minimum of twelve months.

(23) (Continued)

(24) (Continued)

(25) (Continued)

(d) Written ~~second-level~~ supervisory approval has been obtained.

.4 (Continued)

.5 For the parent(s)/guardian(s) from whom the child has been removed, the social worker shall:

.51 Have face-to-face contact at least monthly, unless the case record contains documentation justifying less frequent face-to-face contacts.

.511 If the parent(s)/guardian(s) is not available for a face-to-face contact, the social worker shall maintain monthly written or telephone contact with him/her regarding the child's status and the parent/guardian actions that should be occurring in order to facilitate reunification.



.512 The social worker shall maintain monthly written or telephone contact with the parent(s)/guardian(s) when the parent is contacted monthly by one or more of the following persons when such persons are providing services pursuant to the service plan and there is an agreement with any such services provider, documented in the case record, that he/she will provide contact reports expeditiously to the social worker:

- (a) Social services staff of a county welfare department.
- (b) Staff of another services agency.
- (c) A physician or other professional providing services pursuant to the service plan.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 16507 and 16507.1, Welfare and Institutions Code.

Amend Section 30-434.4 to read:

30-434 SERVICE PLAN

30-434

.4 All initial service plans shall have signed and dated, written approval of the permanent placement social worker's supervisor within the 67-calendar day time frame specified for the completion of the plan. The supervisor's approval shall document the following:

.41 The appropriateness of having an open case, including eligibility and need for services.

.42 A determination of the actions that would be necessary to close the case including the identification and closure of any cases that are inappropriate pursuant to Section 30-132.121.

.43 A review of the current risk based on the child's age and severity of the original allegation. This review shall include the status of the original allegation and an identification of any new allegations which would necessitate a change in the case plan.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11404, 16501.3, 16508, and 16508.1, Welfare and Institutions Code.

Amend Section 30-442.31 to read:

30-442 PLACEMENT CASE MANAGEMENT (Continued)

30-442

.3 For each child in placement the social worker shall:

.31 Have face-to-face contact at least monthly, except as specified in Sections 30-442.311 through 30-442.314 ~~below~~.

.311 If the child has been placed with a legal guardian or relative and such services are unnecessary, the social worker shall have face-to-face contact with the child no less frequently than once every six months.

.312 If the child has been placed in a group home, and the criteria specified in Sections 30-442.313(a) through (e) ~~below~~ have been met, the social worker shall have face-to-face contact with the child in the home no less frequently than once every ~~three~~ six months.

.313 (Continued)

.314 If the child is contacted monthly by one or more of the following persons when such persons are providing services pursuant to the service plan and there is an agreement with any such services provider, documented in the case record, that he/she will provide contact reports expeditiously to the social worker, the social worker shall be permitted to have less frequent contact, up to a minimum of once every six months:

(a) Social services staff of a county welfare department.

(b) Staff of another services agency.

(c) A physician or other professional providing services pursuant to the service plan.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553, ~~and~~ 16508, and 16508.1, Welfare and Institutions Code.

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

**FILED**  
In the office of the Secretary of State  
of the State of California

NOV 13 1990

At 4:25 o'clock P.M.

MARCH FONG EU, Secretary of State

By Michelle L. Williams  
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the City of Sacramento, State of California.

Submitting Agency: Social Services

OAL File No: 90-1101-05

  
JOHN D. SMITH  
Director

11/13/90

# NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See Instructions on reverse)

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER 90-1025-02N	EMERGENCY NUMBER	PREVIOUS REGULATORY ACTION NUMBER
For use by Office of Administrative Law (OAL) only				
NOTICE		<p>1990 OCT 25 AM 10:36</p> <p>OFFICE OF ADMINISTRATIVE LAW ENDORSED APPROVED FOR FILING NOV 26 1990</p>		
AGENCY State Department of Social Services		AGENCY FILE NUMBER (if any) RDB #0890-39		

**FILED**  
In the office of the Secretary of State  
of the State of California

NOV 26 1990  
At 4:43 o'clock P.M.  
MARCH FONG EU, Secretary of State  
By *Michelle K. Williams*  
Deputy Secretary of State

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON		TELEPHONE NUMBER
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER		PUBLICATION DATE

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

### 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

SECTIONS AFFECTED	ADOPT
	AMEND
	Sections 11-600;601;603;700;701 through 717;800;801 through 808;900; and 901 through 908.
TITLE(S) MPP	REPEAL

### 2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346)
 ☐ Resubmittal
 ☒ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)
 ☐ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only
 ☐ Other (specify)

### 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

N/A

### 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State
 ☒ Effective on filing with Secretary of State
 ☐ Effective other (Specify)

### 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399)
 ☐ Fair Political Practices Commission
 ☐ State Fire Marshal

☐ Other (Specify)

### 6. CONTACT PERSON

Rosalie Clark, Chief, Regulations Development Bureau

TELEPHONE NUMBER

(916) 445-0313

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

*Linda S. McMahon*

DATE

10-19-90

TYPED NAME AND TITLE OF SIGNATORY

Linda S. McMahon, Director



## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 7-90) (REVERSE)

EXHIBIT A 2013 NOV

INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for re adoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Renumber Chapter 11-600 to Division 12 and Sections 11-601 and 11-603 to 12-000 and 12-003 to read:

~~11-600~~ DIVISION 12 ADMINISTRATIVE STANDARDS FOR STATE IV-D ~~11-600~~  
AGENCY

112-60100 GENERAL STATEMENT (Continued) 112-60100

112-6003 PLAN OF COOPERATION (STATE) (Continued) 112-6003

Renumber Chapter 11-700 to 12-700 and Sections 11-701 through 11-717 to 12-701 through 12-717, and amend to read:

- |         |  |         |
|---------|--|---------|
| 112-700 | FRANCHISE TAX BOARD (FTB) AND INTERNAL<br>REVENUE SERVICE (IRS) TAX REFUND INTERCEPT<br>REGULATIONS  | 112-700 |
| 112-701 | DEFINITIONS (Continued)  | 112-701 |
| 112-702 | GENERAL REQUIREMENTS   | 112-702 |
| .1      | Each <del>D</del> istrict <del>A</del> ttorney shall submit annually to SDSS a list of all eligible cases.   |         |
| .2      | Eligible cases shall be submitted as prescribed by SDSS in Manual of Policies and Procedures Sections 112-703 and 112-704.   |         |
| .3      | The <del>D</del> istrict <del>A</del> ttorney shall conduct an annual review to determine which cases require a social security number to qualify for tax refund intercept.  |         |
| .4      | When necessary for submission, the <del>D</del> istrict <del>A</del> ttorney shall obtain the obligor's social security number within 180 days from the date the case is identified as being deficient. Whenever a <del>D</del> istrict <del>A</del> ttorney has exhausted all available resources and the social security number is still unavailable, the <del>D</del> istrict <del>A</del> ttorney shall document all actions taken in the case file. |         |
| 112-703 | FTB ELIGIBILITY REQUIREMENTS (Continued)   | 112-703 |
| 112-704 | IRS ELIGIBILITY REQUIREMENTS (Continued)   | 112-704 |
| 112-705 | UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT<br>(URESА) SUBMISSIONS   | 112-705 |
| .1      | District attorneys must submit all URESА cases meeting the eligibility requirements of Section 112-703. (Continued)  |         |
| .2      | (Continued)  |         |



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HANDBOOK BEGINS HERE

.1 (Continued)

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HANDBOOK ENDS HERE

.2 (Continued)

.3 (Continued)

.34 The case need not be a URESA case, but the FIP\$S code will be used like a URESA notification in order to report the submitted case information to the other state's agency. (Continued)

.4 (Continued)

112-707 CERTIFICATION (Continued)

112-707

112-708 SUBMISSION CRITERIA FOR AFDC-FC CASES AND  
STATE-ONLY AIDED CASES

112-708

.1 (Continued)

.11 (Continued)

.12 (Continued)

.121 State-only and county-only FC cases with arrearages shall only be submitted as non-AFDC IRS Tax Refund Intercept Program cases.

.13 (Continued)

.14 (Continued)

.2 (Continued)

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HANDBOOK BEGINS HERE

.1 (Continued)

.11 The Child Support Warning Notice (DPS 236) will contain, at a minimum, the following information:  
(Continued)

.113 The absent parent's right to contest the referral and request an administrative review within 30 days from the date of notice (see Section 172-712 for complaint procedure).

.114 (Continued)

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HANDBOOK ENDS HERE

.2 (Continued)

.3 (Continued)

172-710 UPDATES

172-710

.1 District Attorneys shall update individual case arrearage amounts and submit the updates to SDSS at least monthly when the certified arrearage amount has been reduced by any amount during that month.

.2 (Continued)

.3 (Continued)

172-711 DISTRIBUTION OF COLLECTIONS

172-711

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HANDBOOK BEGINS HERE

.1 Intercepted refunds are forwarded to the District Attorneys by SDSS.

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HANDBOOK ENDS HERE

.11 (Continued)

.12 (Continued)

.2 (Continued)

.3 (Continued)

.4 If the amount collected and forwarded to a ~~D~~district  
Attorney exceeds the original certified arrearage, that  
~~D~~district Attorney shall research the statewide master file  
for additional certified arrearages in other counties.  
(Continued)

172-712 ADMINISTRATIVE REVIEW PROCEDURES

172-712

.1 (Continued)

.2 (Continued)

.21 The district attorney shall: (Continued)

.213 Audit its records and report the findings to the  
absent parent in writing. Written findings  
shall inform the absent parent of the right to a  
formal review as provided in Section 172-712.3.

.214 (Continued)

.215 If an error was detected, the district attorney  
shall:

(a) (Continued)

(b) (Continued)

(c) If a tax refund intercept has already been  
made, the ~~D~~district Attorney shall  
promptly return any excess money intercept  
to the absent parent (see Section 172-713,  
Instructions for Returning Excess  
Intercepts).

.3 (Continued)

.31 The district attorney shall: (Continued)

.315 Promptly notify the absent parent of the results  
of the formal review in writing and return any  
erroneously intercepted money to the absent  
parent (see Section 172-713, Instructions for  
Returning Excess Intercepts/).

.4 Interstate cases

.41 (Continued)

.42 The submitting California district attorney's office shall first attempt to resolve complaints on interstate cases following the procedures outlined in Sections 12-712.1 and .2 above.

.43 (Continued)

.44 If an intercept has occurred, the submitting California district attorney shall promptly refund any excess money intercepted to the absent parent (see Section 112-713, Instructions for Returning Excess Intercepts).

.5 (Continued)

112-713 INSTRUCTIONS FOR RETURNING EXCESS INTERCEPTS 112-713

.1 (Continued)

.2 If there are no additional certified or uncertified arrearages in other counties, ~~the~~ district ~~attorneys~~ shall refund excess monies intercepted to the absent parent within ~~the~~ 15 working days from the day the excess intercept was identified, regardless of whether or not the ~~the~~ district ~~attorney~~ has received the intercepted funds.

.3 When excess intercepted monies which are refunded to the taxpayer by a ~~the~~ district ~~attorney~~ are returned by the post office as undeliverable, the county shall: (Continued)

.4 (Continued)

.5 (Continued)

112-714 IRS OFFSET FEES (Continued) 112-714

112-715 SUBMISSION AUDITS (Continued) 112-715

172-716 JOINT IRS RETURNS (Continued)

172-716

172-717 NEGATIVE IRS ADJUSTMENTS (Continued)

172-717

Renumber Chapter 11-800 to 12-800 and Sections 11-801 through 11-808 to 12-801 through 12-808, and amend to read:

112-800 COMPLIANCE AND SANCTIONS

112-800

112-801 GENERAL

112-801

- .1 Pursuant to the provisions of Welfare and Institutions Code Section 10605, as described in the handbook material in this chapter, and to the provisions of this chapter, the ~~ø~~Director shall have the authority to take specified administrative and/or judicial actions if he/she believes that a county is substantially failing to comply with any provision of the Welfare and Institutions Code or any regulation pertaining to any program administered by the ~~ø~~Department, and he/she determines that formal action may be necessary to secure compliance.

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HANDBOOK BEGINS HERE

- .2 The compliance proceedings described in this chapter are in addition to the ~~ø~~Director's power to bring an action for writ of mandamus or such other judicial action as may insure that there is no interruption in the provision of benefits to any eligible person under the provisions of the Welfare and Institutions Code or the regulations of the Department.

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HANDBOOK ENDS HERE

112-802 NOTICE OF NONCOMPLIANCE

112-802

- .1 Upon determination of the necessity for formal action to secure compliance, the ~~ø~~Director shall provide notice of the noncompliance to the county.

.11 (Continued)

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HANDBOOK BEGINS HERE

- .111 The following portion of Welfare and Institutions Code Section 10605 relates to noncompliance notices:

"If the ~~Ø~~director believes that a county is substantially failing to comply with any provisions of this code or any regulations pertaining to any program administered by the ~~Ø~~department, and ~~Ø~~the director determines that formal action may be necessary to secure compliance, he or she shall inform the ~~Ø~~county ~~W~~welfare ~~Ø~~director and the ~~Ø~~board of ~~Ø~~supervisors of ~~Ø~~that failure. The notice to the ~~Ø~~county ~~W~~welfare ~~Ø~~director and ~~Ø~~board of ~~Ø~~supervisors shall be in writing and shall allow the county a specified period of time, not less than 30 days, to correct its failure to comply with the law or regulations."

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HANDBOOK ENDS HERE

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.12 The notice shall contain the following information in addition to that specified in Section 12-802.11~~above~~:

.121 A citation of the statute or regulation with which the ~~Ø~~Director has determined the county is not in compliance.

.122 (Continued)

112-803 COUNTY ACTION UPON RECEIPT OF NOTICE OF NONCOMPLIANCE

112-803

.1 If, upon receipt of the notice, corrective action regarding the noncompliance has been taken, the county shall provide such evidence as may be requested in writing by the ~~Ø~~Director in order to establish that it has come into compliance as directed by the notice.

.11 In making such a request, the ~~Ø~~Director shall allow the county a reasonable period of time, not less than the remainder of the period specified in the notice of noncompliance, in which to provide such evidence.

.2 If the county chooses to provide written reasonable assurances that it will be in compliance in accordance with Welfare and Institutions Code Section 10605 it shall met the requirements specified in Sections 12-803.211 and .221~~Ø~~~~Ø~~.

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HANDBOOK BEGINS HERE

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- .21 With regard to reasonable assurances, Welfare and Institutions Code Section 10605 states, in pertinent part, that the ~~Ø~~county may within the specified time for correction, "...provide reasonable assurances in writing that it will comply within ~~§10605~~ the additional time as the ~~Ø~~director may allow...".

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HANDBOOK ENDS HERE

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- .211 Such assurances shall be:

/211 (A) (Continued)

/212 (B) (Continued)

- .221 If the county cannot comply within the period specified in the notice, it shall provide the ~~Ø~~Director with the following information:

/221 (A) (Continued)

/222 (B) (Continued)

- .3 If the county fails to comply with the provisions of Sections 12-803.1 or .2~~above~~, it shall be subject to the provisions of Section 112-804.

112-804 ACTION UPON CONTINUED NONCOMPLIANCE BY A COUNTY 112-804

- .1 If the provisions of Sections 112-803.1 or .2 ~~above~~ are not met within the specified time period, the ~~Ø~~Director shall have the authority to take one or both of the following actions:

.11 (Continued)

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HANDBOOK BEGINS HERE

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- .111 On the subject of injunctive relief, Welfare and Institutions Code Section 10605 states that:

"Any county which is found to be failing in a substantial manner to comply with the law or regulations pertaining to any program administered by the department may be enjoined by any court ~~Ø~~ of competent jurisdiction. The court may make ~~§10605~~ orders or judgments as may be necessary to secure county compliance."

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HANDBOOK ENDS HERE

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HANDBOOK BEGINS HERE

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- .121 With regard to conduct of compliance hearings, Welfare and Institutions Code Section 10605(b) states, in pertinent part, that the Director may "øOrder the county to appear at a hearing before the øDirector with the State Social Services Advisory Board Committee on Welfare and Social Services to show cause why the director should not take administrative action to secure compliance. The county hearings shall be conducted pursuant to the rules and regulations of the department/".

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HANDBOOK ENDS HERE

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112-805 ORDER TO APPEAR

112-805

- .1 The Order to Appear shall contain information including but not limited to the following:
- .11 (Continued)
- .12 The hearing location, which shall be in the city in which the principal office of the county welfare department is located, or in such other place as is designated by the øDirector when necessary for the convenience of the parties or their representatives.
- .2 (Continued)
- .3 (Continued)

112-806 REQUESTS TO PARTICIPATE IN THE COMPLIANCE HEARING

112-806

- .1 The county and the øDepartment shall be considered to be parties to the hearing and need not make a specific request to participate.
- .2 The øDirector shall have the authority to recognize other individuals or groups as parties, if the county noncompliance to be considered has caused them injury and their interest is among those to be protected by the law or regulation in issue.

.21 Any individual or group wishing to participate as a party shall file a petition with the ~~ad~~Director within 10 ten days after notice of the hearing has been published in accordance with Section 112-805.3, and shall send a copy to the county welfare director and the county board of supervisors.

.22 (Continued)

.23 The county shall be permitted to file comments with the ~~ad~~Director regarding the petition to participate provided that such comments are submitted within 5 five days of receipt, in accordance with Section 12-806.21 ~~above~~, of a copy of the petition.

.24 The ~~ad~~Director, or the presiding officer, shall promptly determine whether each petitioner has the requisite interest in the proceedings and shall permit or deny participation accordingly.

.241 The ~~ad~~Director or presiding officer shall give each petitioner written notice of the decision on his or her petition at least 10 ten days prior to the hearing.

.242 (Continued)

.25 Where petitions to participate as parties are made by individuals or groups with common interests, the ~~ad~~Director or presiding officer shall have the authority to request all such petitioners to designate a single representative, or to recognize one or more of such petitioners to represent all such petitioners.

112-807 COMPLIANCE HEARING

112-807

.1 (Continued)

.2 The presiding officer at the hearing shall be the ~~ad~~Director or his designee.

.21 (Continued)

.22 (Continued)

.3 The members of the State Social Services Advisory Board Committee on Welfare and Social Services shall have the following rights at any time during the proceeding:  
(Continued)

.4 (Continued)

.41 (Continued)

.42 Opportunity shall be given to refute facts and arguments advanced on either side of the issues.

.5 (Continued)

.6 (Continued)

.7 The issues considered at the hearing shall be limited to those issues of which the county was notified pursuant to Section 172-802.1, unless both the ~~ø~~Department and the county agree to consideration of a new issue.

#### 172-808 DIRECTOR'S FINDINGS AND DECISION, AND SANCTIONS 172-808

.1 No later than 30 days following the hearing, the ~~ø~~Director shall render in writing his/her findings and decision on the county noncompliance issues.

.2 The ~~ø~~Director's written decision shall contain information including but not limited to the following:

.21 (Continued)

.22 (Continued)

.221 If the ~~ø~~Director finds that the original citation of noncompliance is valid, he/she shall have the authority to decide that one of the sanctions specified in Welfare and Institutions Code Section 10605 shall be invoked.

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#### HANDBOOK BEGINS HERE

(a) Regarding sanctions, Welfare and Institutions Code Section 10605 states, in pertinent part:

"If the ~~ø~~director determines, based on the record established at the hearing and the advice of the State Social Services Advisory Board Committee on Welfare and Social Services, that the ~~ø~~county is failing to comply with the provisions of this code or the regulations of the ~~ø~~department, ...the ~~ø~~director may invoke either of the following sanctions:

"(1) Withhold all or part of §state and ¶federal funds from §~~the~~ the county until the county demonstrates to the ¶director that it has complied.

"(2) Assume, temporarily, direct responsibility for the administration of all or part of any or all programs administered by the ¶department in §~~the~~ the county until §~~the~~ the time as the county provides reasonable assurances to the ¶director of its intention and ability to comply. During §~~the~~ the period of direct §state administrative responsibility, the ¶director or his or her authorized representative shall have all of the powers and responsibilities of the ¶county ¶director, except that he or she shall not be subject to the authority of the ¶board of §supervisors."

(b) It should be further noted that this section requires the ¶county to provide sufficient funds for the continued operation of all programs administered by the Department."

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HANDBOOK ENDS HERE

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.23 Reference to the county's right to judicial review of the ¶Director's decision, as specified in Welfare and Institutions Code Section 10605 shall be invoked.

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HANDBOOK BEGINS HERE

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.231 This code section allows the county to seek judicial review of the ¶Director's decision under Code of Civil Procedure Section 1094.5. This method of review is the exclusive remedy available to review the ¶Director's decision.

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HANDBOOK ENDS HERE

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.3 (Continued)

Renumber Chapter 11-900 to 12-900 and Sections 11-901 through 11-908 to 12-901 through 12-908, and amend to read:

112-900 COMPLIANCE WITH STATE PLAN FOR DETERMINING PATERNITY, SECURING CHILD SUPPORT, AND ENFORCING SPOUSAL SUPPORT ORDERS 112-900

112-901 SCOPE 112-901

This chapter governs the procedure that shall be followed when the Director determines pursuant to Welfare and Institutions Code Section 11475.2 that a public agency, as defined in Section 112-902, is failing to comply with the provisions of the State Plan relating to determining paternity, securing child support, and enforcing existing spousal support orders when enforced in conjunction with a child support obligation. All compliance matters relating to determining paternity, child support, and enforcing spousal support orders shall be subject to the provisions of this chapter rather than the provisions of Chapter 112-800.

112-902 DEFINITION (Continued) 112-902

112-903 VOLUNTARY CORRECTIVE PROCEDURES (Continued) 112-903

112-904 NOTICE OF INTENT TO ENFORCE COMPLIANCE 112-904

.1 If the procedures described in Section 112-903 do not result in a voluntary correction of a compliance problem and the Director thereafter finds that the public agency is failing in a substantial manner to comply with any provision of the State Plan for determining paternity, securing child support, and enforcing spousal support, and that sanctions are necessary to secure compliance, the Director shall put such agency on written notice to that effect.

.2 The notice shall contain:

.21 (Continued)

.22 A brief explanation of the Director's reasons for believing that such noncompliance exists; ~~and~~

.23 A statement regarding which of the sanctions provided in Section 112-906 the Director intends to invoke; and

.24 The date for which the compliance conference provided for in Section 112-905 is scheduled.

.3 (Continued)

112-905 COMPLIANCE CONFERENCE

112-905

- .1 Any of the persons or agencies who received a copy of the notice of intent to enforce compliance pursuant to Section 112-904.3 may attend the compliance conference.
  - .11 (Continued)
  - .12 If a district attorney who wishes to attend the compliance conference pursuant to the provisions of Section 112-905.1 requests that a representative from the Office of the Attorney General be present, the Director shall request the Office of the Attorney General to send a representative to the conference.
- .2 (Continued)
- .3 (Continued)
- .4 If, at the compliance conference, the public agency fails to establish that it is in compliance, or fails to present a satisfactory plan for noncompliance, the Director may proceed to invoke the proposed sanction(s) after notifying the public agency of his/her decision pursuant to Section 112-905.5.
- .5 (Continued)
- .6 (Continued)

112-906 SANCTIONS

112-906

The Director may, at any time after giving the public agency notice in accordance with Section 112-904 and subject to the provisions of Section 112-905, invoke either or both of the following sanctions:

- .1 The Director may withhold part or all of ~~§~~state and ~~¶~~federal funds, including incentive funds, from the public agency until the public agency makes a showing to the Director of full compliance; or
- .2 (Continued)

172-907 COMPLIANCE WITH MERIT SYSTEM REQUIREMENTS

172-907

.1 (Continued)

.2 Upon receipt of a certification from the State Personnel Board, the Director may immediately proceed to invoke either or both of the sanctions provided in Section 172-906.

172-908 RESPONSIBILITY FOR FUNDING (Continued)

172-908

OFFICE OF ADMINISTRATIVE LAW

**FILED**  
In the office of the Secretary of State  
of the State of California

CERTIFICATION

OF

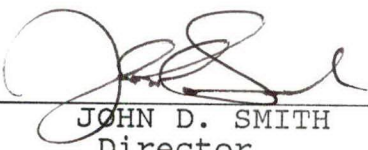
APPROVAL

NOV 26 1990  
At 4:43 o'clock P.  
MARCH FONG EU, Secretary of State  
By *Michael G. Williams*  
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the City of Sacramento, State of California.

Submitting Agency: Social Services

OAL File No: 90-1025-02

  
JOHN D. SMITH  
Director

11/26/90





## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 7-90) ( REVERSE)

INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READoption**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Amend Section 22-009.11 to read:

22-009 TIME LIMIT ON REQUEST FOR A STATE HEARING

22-009

.1 (Continued)

.11 If the claimant received adequate notice of the action (see Section 22-001a.(1)), the date of the action shall be the date on which the notice was mailed to the claimant. *In all other cases/ the date of the action or inaction shall be considered to be the date the action was discovered/ the date of discovery is the date the claimant knew or should have known/ of the action/* (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Ct. Appl. Fourth App Dist, Div 1, State of California, case of Morales v. McMahon (Superior Court Case No. 532466, August 27, 1990).

AUG 27 1990

CERTIFIED FOR PUBLICATION

COURT OF APPEAL, FOURTH APPELLATE DISTRICT  
DIVISION ONE  
STATE OF CALIFORNIA

CLEOTILDE MORALES et al.,

Plaintiffs and Appellants,

v.

LINDA McMAHON, in her official  
capacity as DIRECTOR,  
DEPARTMENT OF SOCIAL SERVICES,

Defendant and Respondent.

D010392

(Super. Ct. No. 532466)

Appeal from a judgment of the Superior Court of San Diego  
County, Kevin Midlam, Judge. Reversed and remanded with  
instructions.

Legal Aid Society of San Diego, Inc., Anson B. Levitan,  
Carol Bracy and Colleen Fahey Fearn for Plaintiffs and  
Appellants.

John K. Van de Kamp, Attorney General, Charlton G. Holland,  
III, Assistant Attorney General, Anne S. Pressman, Supervising  
Deputy Attorney General, and Richard J. Magasin, Deputy  
Attorney General, for Defendant and Respondent.

Appellant Cleotilde Morales brought an action for  
declaratory and injunctive relief, and for mandamus,

challenging a certain regulation promulgated by the Department of Social Services (D.S.S.). Such regulation limits the time for a welfare recipient to request a fair hearing to challenge adverse determinations on certain benefits. Appellant sued individually, and as representative of a class consisting of all recipients of benefits under the "Aid to Families with Dependent Children" program (AFDC program) (42 U.S.C., § 601 et seq.), whose request for a fair hearing was denied pursuant to D.S.S.'s Manual of Policy and Procedures (M.P.P.) section 22-009.11 (the challenged regulation). Appellant contends the challenged regulation is invalid, because it is inconsistent with controlling federal regulations and state statutes providing for rights to notice and hearing, and also is inconsistent with federal and state procedural due process rights. Appellant appeals from the judgment finding the challenged regulation valid.

Because the challenged regulation appears incompatible with controlling federal regulations which mandate written notice of certain adverse determinations, we are compelled to conclude the regulation is invalid and unenforceable.

#### 1. Statutory Context

The AFDC program is a cooperative federal and state program of financial assistance to needy children and their families. (See 42 U.S.C., § 601 et seq.; Sher v. Vialpando (1974) 416 U.S. 251, 253.) Although a state is not required to

participate in the program, once a state chooses to participate it must administer the state plan in conformity with the federal laws and regulations governing the program. (King v. Smith (1968) 392 U.S. 309, 316-317; Camp v. Swope (1979) 94 Cal.App.3d 733, 743.)

There is no dispute that 45 Code of Federal Regulations section 205.5 governs state plans administering certain benefits under the Social Security Act, including the benefits appellant claims were improperly denied based on the challenged regulation. When the state intends to take certain types of "adverse action" as to certain benefits (such as reducing or ending payments to the recipient), federal regulations under 45 Code of Federal Regulations section 205.10(a)(4) provide that:

"(i) The State . . . shall give timely and adequate notice, except as provided for in paragraphs (a)(4)(ii), (iii), or (iv) of this section. Under this requirement:

(A) 'Timely' means that the notice is mailed at least 10 days before the date of action, that is, the date upon which the action would become effective;

(B) 'Adequate' means a written notice that includes a statement of what action the agency intends to take, the reasons for the intended agency action, the specific regulations supporting such action, explanation of the individual's right to request an evidentiary hearing (if provided) and a State agency

~~AUG-30-90 THU 13:41~~

hearing, the circumstances under which assistance is continued if a hearing is requested, [and an explanation of repayment obligations, if any]."  
(Emphasis added.)<sup>1</sup>

Federal regulations also mandate that aggrieved recipients, dissatisfied with the agency action, be provided the right to a hearing to be conducted under the due process standards enunciated in Goldberg v. Kelly (1970) 397 U.S. 254 (see 45 C.F.R., § 205.10(a)(1)). Such regulations further provide the claimant shall be given a reasonable time, not to exceed 90 days, in which to appeal the agency action. (See 45 C.F.R., § 205.5(a)(5)(iii).)

Appellant challenges a state regulation, promulgated by D.S.S. as part of its M.P.P., which ostensibly implements the 90-day limitation period for filing appeals of adverse actions. State regulations include a requirement for notifying a claimant of an adverse action<sup>2</sup> which parallels the federal notice requirements, and mandate that a dissatisfied claimant

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<sup>1</sup> Similar regulations governing a recipient's right to notice and hearing apply to the Food Stamp program. (See 7 C.F.R., § 273.13.)

<sup>2</sup> M.P.P. section 22-001(a)(1) provides: "Adequate Notice - A written notice informing the claimant of the action the county intends to take, the reasons for the intended action, the specific regulations supporting such action, an explanation of the claimant's right to request a state hearing, and if appropriate, the circumstances under which aid will be continued if a hearing is requested."



request a hearing within 90 days after the date of the action.  
(M.P.P., § 22-009.1.)

The specific regulation which appellant contends is invalid provides:

"If the claimant received adequate notice of the action (see Section 22-001(a)(1)), the date of the action shall be the date on which the notice was mailed to the claimant. In all other cases, the date of the action or inaction shall be considered to be the date the action was discovered. The date of discovery is the date the claimant knew, or should have known, of the action." (M.P.P., § 22-009.11, emphasis added.)<sup>3</sup>

It is the highlighted portion of the regulation which appellant contests, arguing it effectively dispenses with the necessity of providing written notice. She claims such language precludes a recipient from a fair hearing without ever receiving any written notice if the hearing officer concludes the recipient had obtained (or was charged with) knowledge of the agency's action reducing benefits and of the recipient's right to appeal.

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<sup>3</sup> The regulation was amended in 1987 to add that the date of the action would accrue from the time the claimant knew, or should have known, of the action and of the right to request a hearing including the procedures necessary to obtain a hearing on such action. (See M.P.P., § 22-009.12.)



## 2. Factual and Procedural Background

In appellant's case, her aid was reduced in 1981 based on the D.S.S.'s determination she had been overpaid in prior benefit periods, because she failed to report that an "absent" parent was in fact living in her home during these prior periods. The "Notice of Action" (NOA) sent in 1981 informed her of the proposed action reducing her benefits, but failed to state the reason for the proposed action, as required by state and federal regulations. The 1981 NOA invited the claimant to call her eligibility worker if she had any questions, and informed her of her right to appeal within 90 days of the NOA.

In 1983 Morales first received a NOA stating "absent parent at home" as the reason for reducing her benefits. Morales filed for a fair hearing within 90 days of the 1983 NOA. The hearing officer, relying on the "knew or should have known" language of the challenged regulation, concluded the action was barred as untimely because Morales knew or should have known in 1981 of the action reducing her benefits and of her right to appeal, thereby triggering the 90-day period of appeal.

The instant lawsuit was then filed to challenge the validity of the state regulation, contending it was incompatible with federal law and violative of federal and state procedural due process guarantees. The trial court

granted D.S.S.'s motion for summary judgment, concluding the challenged regulation did not violate federal or state regulatory or constitutional requirements.

3. The State Regulation Is Invalid Insofar As It Operates to Deny Claimants a Fair Hearing Without Providing Claimants with the Federally Mandated Written Notice of Action

The narrow issue before us is whether the state regulation may validly deny a "fair hearing" to a recipient of AFDC funds, even though the written notice of the adverse action required by 45 Code of Federal Regulations section 205.10(a)(4)(i)(B) was never provided, merely because the recipient "knew or should have known" of the adverse action and his right to appeal.

As discussed above, state participation in the federally funded welfare programs is elective, but once the state opts to participate it must administer its programs in compliance with federal laws and regulations. (County of Alameda v. Carleson (1971) 5 Cal.3d 730, 739.) To the extent state regulations conflict or are incompatible with federal regulations governing such programs, the state regulations are invalid and unenforceable. (See, e.g., Camp v. Swoap, supra, 94 Cal.App.3d at pp. 741-746.)

We conclude the state regulation is incompatible with the federal regulations because the former would preclude a recipient from obtaining a federally mandated fair hearing even

though he never received the federally mandated written notice of adverse action. The federal regulation governing hearings is unequivocal: In cases of adverse action, the state shall give timely and adequate notice, such "adequate notice" being defined as written notice containing certain mandatory information. The federal regulation provides no exceptions for oral notice or constructive notice.<sup>5</sup>

The parties have not cited, nor have we located, any authorities directly addressing the issue of whether a state may enforce a regulation which effectively eliminates the necessity of providing the federally prescribed written notice, as does the challenged regulation. However, the courts have uniformly invalidated state promulgated policies which provided some form of written notice where the specified notice failed adequately to convey the substantive information federal regulations mandated for inclusion. (See, e.g., Schroeder v. Hagstrom (D.C. Ore. 1984) 590 F.Supp. 121, 125-130 [notice which failed to explain "reasons for action" and "basis for determination" held invalid for noncompliance with federal regulations, and defective notice cannot be excused by inviting

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<sup>5</sup> Indeed, the fact that the same federal regulation specifies the limited circumstances under which a less timely or comprehensive notice will be deemed sufficient (see 45 C.F.R., § 205.10(a)(4)(ii)-(iv)) further convinces us the federal scheme brooks no exceptions for oral or constructive notice in lieu of the more comprehensive written notice.

claimant to inquire orally as to reasons or basis]; Ortiz v. Eichler (D.C. Del. 1985) 616 F.Supp. 1046, 1061-1063 [notices which failed to fully explain "reasons for action" or "cite supporting regulations" held invalid for failure to comply with federal regulations, and ability to inquire for more detail does not cure deficiency in notice]; Turner v. Walsh (W.D. Mo. 1977) 435 F.Supp. 707, 713-714, aff'd per curiam (8th Cir. 1978) 574 F.2d 456 [written notice failing to "describe circumstances under which assistance may be continued" and inadequately describing "circumstances under which a hearing may be obtained" held invalid for failure to comply with minimum regulatory requirements].)

We perceive that since incomplete written notices are invalid for failure to convey the substantive information mandated by federal law, a fortiori the failure to give any written notice of that same substantive information is also inadequate. Yet the state regulation purports to permit that if the claimant gets no written notice (or defective notice), he is nevertheless precluded from appeal if he learned, or is charged with "constructive knowledge, of the reduction in his benefits and his right to appeal more than 90 days before his appeal is filed, despite his nonreceipt of the substantive information federal law requires the state provide in written form.

The D.S.S. argues that the regulation is valid because procedural due process is a flexible concept (Morrissey v. Brewer (1972) 408 U.S. 471, 481), and that whether a particular regulation is constitutionally sufficient requires a balancing of interests (Mathews v. Eldridge (1976) 424 U.S. 319), which D.S.S. argues should be struck in favor of upholding a regulation precluding state appeals by recipients who received actual notice. While the challenged regulation might well survive if tested against the minimum notice constitutionally mandated,<sup>6</sup> the federal regulatory scheme has elected to impose an arguably higher standard of "what process is due" (*id.* at p. 333), which standard is binding on California.

The D.S.S. argues, at bottom, that notwithstanding the federal regulation, the "notice" aspect of due process is satisfied because the recipient is deemed to have obtained notice through oral or other informal inquiries. The court in Ortiz v. Eichler, *supra*, 616 F.Supp. 1046, rejected a similar argument, succinctly stating:

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<sup>6</sup> We note that in the seminal case of Goldberg v. Kelly, *supra*, 397 U.S. 254, the court did not find any constitutional infirmity in a system which conveyed notice by a combination of a written letter coupled with an oral conference to explain the reasons for the action. (*Id.* at p. 268.) We also recognize that "actual or constructive notice," in the context of a state scheme unencumbered by federal proscriptions, may well be validly substituted for written notice as the trigger for statutes limiting the time for challenging actions. (See Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn. (1986) 42 Cal.3d 929, 938-940.)

"Defendants' second contention -- that notice inadequacies are unimportant because claimants can call the agency for more detailed information -- has been repeatedly rejected by other federal courts. [Citations.] The plain language of the regulatory definition of 'adequate' . . . requires written notice. Moreover, the burden of providing adequate notice rests with the state, and it cannot shift that burden to the individual by providing inadequate notice and inviting the claimant to call to receive complete notice. [citations]. As the Seventh Circuit Court of Appeals observed in Vargas v. Trainor [(7th Cir. 1974) 508 F.2d 485, 489], public assistance recipients are often less capable than other people of taking affirmative actions to protect their interests [citation]. The result of requiring claimants to make phone calls to obtain adequate notice would be that only the aggressive would receive due process, whereas the applicable regulations require the state to provide due process for all claimants." (Ortiz v. Eichler, supra, 616 F.Supp. at p. 1062.)

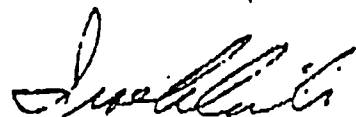
We agree that federal law mandates written notice containing specified information, and the challenged regulation is invalid to the extent it bars an appeal in the absence of compliance with federal mandates.

#### 4. Disposition

The judgment is reversed and remanded with instructions that the trial court grant appellant's motion for summary judgment (see Darces v. Woods (1984) 35 Cal.3d 871, 895), declaring that respondent's M.P.P. section 22.009.1 ("knew or

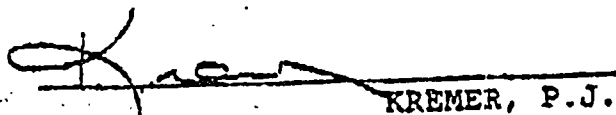
should have known standard") is invalid as violative of federal regulatory requirements, and that the court thereafter undertake such additional or ancillary proceedings as may be consistent with the views expressed herein.

CERTIFIED FOR PUBLICATION

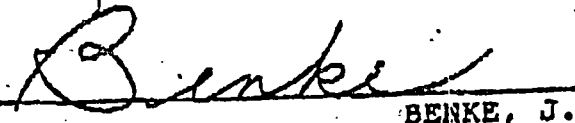


FROENLICH, J.

WE CONCUR:



KREMER, P.J.



BENKE, J.

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

**FILED**  
In the office of the Secretary of State  
of the State of California

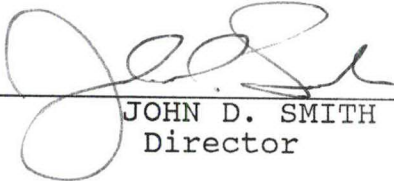
NOV 26 1990

At 443 o'clock P.M.  
MARCH FONG EU, Secretary of State  
By Michael Williams  
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the City of Sacramento, State of California.

Submitting Agency: Social Services  
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OAL File No: 90-1026-01  
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\_\_\_\_\_  
JOHN D. SMITH  
Director

11/26/90  
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## NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 7-90)

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER	PREVIOUS REGULATORY ACTION NUMBER
		90-1029-020	90-0620-03E	

For use by Office of Administrative Law (OAL) only

1990 OCT 29 PM 4:09  
5:09  
OFFICE OF  
ADMINISTRATIVE LAW  
APPROVED FOR FILING  
NOV 28 1990

**FILED**  
In the office of the Secretary of State  
of the State of California

NOV 28 1990  
358  
M. J. McKeale  
Secretary of State

NOTICE

REGULATIONS

AGENCY

Department of Social Services

AGENCY FILE NUMBER (if any)

0490-12

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE	

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

## 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

SECTIONS AFFECTED	ADOPT
	AMEND
	REPEAL
MPP	11-400, 11-402, and 11-406

## 2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346)  
☐ Resubmittal  
☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)  
☐ Emergency (Gov. Code, § 11346.1(b))  
☒ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only  
☐ Other (specify)

## 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

June 29, 1990 through August 16, 1990 and October 4, 1990 through October 22, 1990

## 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State  
☒ Effective on filing with Secretary of State  
☐ Effective other (Specify)

## 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☒ Department of Finance (Form STD. 399)  
☐ Fair Political Practices Commission  
☐ State Fire Marshal

☐ Other (Specify)

## 6. CONTACT PERSON

Rosalie Clark, Chief Regulations Development Bureau

TELEPHONE NUMBER

445-0313

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Linda S. McMahon

DATE

10-29-90

TYPED NAME AND TITLE OF SIGNATORY

Linda S. McMahon, Director



## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 7-90) ( REVERSE)

INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

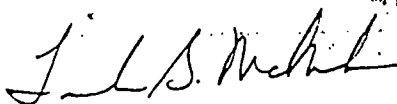
DELEGATED AUTHORITY ORDER

I hereby authorize and designate the following individuals as the agency contact persons who have authority, during the Office of Administrative Law review period, to make decisions and answer questions regarding regulations adopted by the Department of Social Services.

Rosalie P. Clark, Chief  
Regulations Development Bureau

James Rhoads, Assistant Chief  
Regulations Development Bureau

This designation shall be effective on 8-26-88, 1988 and shall remain in effect until superseded or cancelled.

  
Linda S. McMahon  
Director

8-26-88  
Date

Amend Section 11-400 to read:

11-400 AFDC-FOSTER CARE RATES

11-400

Definitions. For purposes of the Foster Care Program, the following definitions shall apply wherever the terms are used throughout Chapter 11-400:

- a. (Reserved)
- b. (1) Base Factor - The 1.0 weighting for each eligible hour of child care and supervision (CCS).
- (2) Basic Rate - The rate paid on behalf of AFDC-FC child placed in a family home exclusive of any specialized care increment.
- (3) Behavioral Science - The study of personal relationships, the results of which would improve a person's behavior, health, or happiness. Behavioral science subjects include, but are not limited to, child development, psychology, counseling and guidance, early childhood education, human services, nursing, social science, social welfare, social work, and sociology.
- c. (1) "Certified Family Home" means a family residence certified by a licensed foster family agency and issued a certificate of approval by that agency as meeting licensing standards, and used only by the foster family agency for placements.
- (2) Child Care and Supervision (CCS) - One of the three program components of the standardized rate setting system.
- (3) Child Care Duties - The duties required of the child care staff as provided for in Title 22, California Code of Regulations, Division 6, Section 84065.1(b) unless restricted by the August 30th Report, "FUNDING FROM OTHER SOURCES," page 6.

HANDBOOK BEGINS HERE

Title 22, Section 84065.1(b) states:

"(b) Child care staff shall perform the following duties:

- (1) Supervision, protection and care of children individually and in groups at all times.

- (2) Assistance to each child in working with a group and in handling individual problems.
- (3) Administration of discipline and setting of limits for behavior.
- (4) Notation of the child's progress; identification of the possible need for professional services; and communication of such findings to professional staff."

The August 30th Report states:

#### "FUNDING FROM OTHER SOURCES

The Department recognizes that circumstances may arise when it is not clear whether staff hours associated with a particular activity fall into one of the program components used for classification purposes. Such circumstances will be determined by the Department on a case-by-case basis. As a general rule, however, the source of the revenue received by the group home provider to fund an activity will be used to make this determination.

For example, a group home program may have a staff (sic) person with professional qualifications in education who works with the children on their school work outside of the school classroom. Many children in foster care are below grade level and need special attention. If the provider receives funding for this activity through the education system, it is considered an educational activity, which is not one of the three program components used for classification purposes.

However, if the provider is not otherwise funded for this activity, it may be considered a parental-type activity (helping one's child with his/her home work) that is allowable for funding under AFDC-FC and the hours will be counted as Child Care and Supervision for classification purposes. In "gray" areas such as this, considering the source of revenue used to fund an activity will allow the Department to avoid the possibility of duplication of funding from other public sources."

HANDBOOK ENDS HERE

- (4) Child Care Worker - A group home employee engaged in providing child care duties and who meets CCL licensing requirements as specified in Title 22, California Code of Regulations, Division 6.
- d. (1) Daily Supervision - all functions of the day-to-day care of the child, including assistance as needed with activities of daily living, personal care, planned activities, food services, incidental medical and dental as specified in California Code of Regulations, Title 22, Section 80409(a), and the assumption of responsibility for the safety and well-being of the child.
- (2) Department - the State Department of Social Services.
- e. (1) Eligible Hour - The unit of time in CCS, social work activities, or mental health treatment services which may be weighted to determine points.
- f. (1) Fail to Maintain - An unplanned group home program modification which decreases the level of care and services associated with the RCL upon which the rate was established.
- (12) Family Home shall be defined in accordance with Section 45-101.1.

#### HANDBOOK BEGINS HERE

The term family home is defined in Section 45-101.1 as follows: Family Home -the family residence of a licensee in which 24-hour care and supervision are provided for children and which is licensed by the appropriate community care licensing agency or a family residence which is approved and which provides care and supervision. For rate setting purposes, the term family home shall include homes licensed as foster family homes, or small family homes and homes which are approved. See Section 45-101.1 for definition of approved home.

#### HANDBOOK ENDS HERE

- (23) First-line Supervisor - A group home employee responsible for the direct supervision of child care workers. This includes residential counselors, program specialists, nurses, and other supervisory staff, regardless of title, where there is documentation of direct supervision of child care workers.

- (34) Fiscal Year - the state fiscal year which begins July 1 and ends June 30 of the following year, unless otherwise specified.
- (45) Formal Education - Completed college credits from an accredited or approved college or university.
- (56) Foster Family Agency shall be defined in accordance with Section 45-101.1.

HANDBOOK BEGINS HERE

The term foster family agency is defined in Section 45-101.1 as follows: Foster family agency means any individual or organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for placement of children for temporary or permanent care who require that level of care as an alternative to a group home. Private foster family agencies shall be organized and operated on a nonprofit basis.

HANDBOOK ENDS HERE

- (67) Frozen Rate - A cost-based rate set by the Department prior to July 1, 1990 based on a program's actual historical costs which is greater than the standard rate for the group home program's rate classification level (RCL) on July 1, 1990.
- (78) Full-time Equivalent - A total of 40 hours for one week or a total of 173 hours for one month.
- g. (1) Good Cause - The inability to respond to a required action due to circumstances beyond the control of the provider, including, but not limited to, natural disasters and emergency medical situations.
- (2) Group home shall be defined in accordance with Section 45-101.0.

HANDBOOK BEGINS HERE

The term group home is defined in Section 45-101.1 as follows: Group Home - means a nonsecure, privately operated residential home of any capacity, including a private child care institution, that provides services in a group setting to children in need of care and supervision, and which is licensed as a community care facility by the Department. See Section 42-503.3 for definition of private institution.

HANDBOOK ENDS HERE

- h. (1) Host County - The county in which the majority of an agency's foster family homes or group home facilities ~~is~~ are located. If the program has facilities in more than one county, the host county shall be that of the facility where the greatest number of children are placed.
- i. (1) Infant Supplement - the amount paid to an eligible facility in addition to the AFDC-FC payment for a minor parent for a child living with his/her minor parent(s).
- j. (Reserved)
- k. (Reserved)
- l. (1) Leaseback - For the purposes of these regulations, leasebacks are limited to the following business arrangements: sale and leaseback, less-than-arms' length leases, and long-term leases that create material equity pursuant to 45 CFR Part 74.174 and OMB Circular A-122, Attachment B, paragraphs 42(b) through (d).
- (2) Licensed Clinical Social Worker (LCSW) - An individual who has been licensed by the California Board of Behavioral Science Examiners to provide clinical social work services which may be defined as social work activity or mental health treatment services.
- (3) Licensed Marriage, Family and Child Counselor (LMFCC) - An individual who has been licensed by the California Board of Behavioral Science Examiners to provide marriage, family and child counseling which may be defined as social work activities or mental health treatment services.
- (4) Licensed Mental Health Professional - An individual who is a ~~licensed~~ psychiatrist; licensed psychologist; licensed clinical social worker; or licensed marriage, family and child counselor as specified in Title 9, California Code of Regulations, Section 629 through 633.
- m. (1) Mental Health Clinical Hour - The unit of time for the provision of direct contact mental health treatment services, consisting of 50 minutes of time with the child and ten minutes of preparation.



- (2) Mental Health Treatment Services - One of the three program components of the standardized rate setting system. These services include the evaluation, ~~therapy~~ treatment, and psychometric testing performed by a licensed mental health professional while the licensed mental health professional and the child are together.

HANDBOOK BEGINS HERE

- n. (1) New foster family agency program - is one which:
- (A) Serves an entirely different population at an entirely different level of service than that currently served by the foster family agency's existing program(s); and
  - (B) Is either based in different certified family home(s) than the current program(s) operated by the foster family agency, or the current program(s) operated by the foster family agency is replaced by an entirely new program.
- (2) New foster family agency provider - is one who:
- (A) Has not operated a foster family agency or group home program for AFDC-FC funded children in the fiscal year preceding that for which the rate is being set; or
  - (B) Has operated a foster family agency in the fiscal year preceding that for which the rate is being set but did not accept AFDC-FC funded children during that fiscal year; and
  - (C) Has not merely added a new program; increased the level of services provided; changed incorporation; reorganized; or changed name, location, ownership or license.

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- (3) New Program - A new program provided by an existing provider is one in which:
- (A) The type of children to be accepted ~~has~~ have measurable differences in their characteristics, behaviors, and or needs for care and services which are entirely different due to the type of background and any medical, mental, social or emotional conditions which are different than those children in the provider's existing program(s) as described in the new program statement; and

(B) The RCL is different than those in the provider's existing program(s) or

(C) The RCL is the same but the staffing pattern is quantitatively different, whether or not the RCL changes, because:

(1) The number of eligible hours per child per month in at least one program component is different from the provider's existing program(s); and

(2) The staff's professional levels for the proposed program are disparate from those in the provider's existing program(s).

(4) New Provider - A sole proprietor, partnership, or corporate entity who has not operated a group home which receives funding from AFDC-FC or severely emotionally disturbed (SED) in the preceding fiscal year.

o. (1) On-going Training - Training ~~provided to child care workers and licensing supervisors~~ which is structured as a training session; announced ahead for a particular time and place; presented by a qualified trainer qualified to train in the specific subject matter; any costs incurred for the trainer, tuition, conference fees, and employee's cost of attendance, including wages or salary, shall be paid by the provider; and relates directly to the program as described in the program statement.

p. (1) Paid-awake - The hours in which staff are awake and reimbursed ~~with wages~~ in a manner consistent with the Department of Industrial Relations.

(2) Placement Agency - shall be defined in accordance with Section 45-101.1.

#### HANDBOOK BEGINS HERE

The term placement agency is defined in Section 45-101.1 as follows: Placement Agency means the agency with responsibility for placement and care of an AFDC-FC eligible child.

#### HANDBOOK ENDS HERE

- (3) Point(s) - The number calculated by the hours of service per child per month weighted by education, experience, training and/or professional level of the individual providing the service and divided by the greater of 90 percent of the group home program's licensed capacity or by 5.4, as provided for in the program classification methodology.
- (4) Primary Placing County - The county(ies) which places the greatest percentage of children in the group home program.
- (5) Program - A provider's unique combination of services to a specific population of children in one or more licensed group home facility(ies) as described in the program statement.
- (6) Program Change - Any ~~change~~ alteration to an existing program planned by a ~~group home~~ provider ~~makes~~ to an ~~existing program~~ group home that may affect, in any way, the RCL, the AFDC-FC rate, or the type of children in placement.
- (7) Program Classification - The computed RCL.
- (8) Provider - A licensee of one or more group homes.

q. (Reserved)

- r. (1) Rate Classification Level (RCL) - The rate category for a program whose calculated points fall into a specified point range.
- (2) Residential Child Care Experience - Prior experience in providing direct child care worker duties to children residing in out-of-home care, including first-line supervision of child care workers.
  - (A) Qualifying experience shall include, but is not limited to, direct child care or direct supervision of child care workers at the group home program for which a rate is being requested and prior employment experience with direct responsibility caring for children or directly supervising child care workers in other group homes, county receiving home/shelters, youth authority camps and facilities, county juvenile halls and camps, juvenile detention facilities, public and/or private mental health day treatment programs, or as a licensed or certified foster parent.

(B) Qualifying experience shall include child care worker duties in nonresidential settings such as a teacher of specialized education, a juvenile probation officer, or a child protective services worker.

(C) Qualifying experience shall include experience in child day care, ~~or~~ residential adult drug and alcohol treatment programs, or mental health treatment programs when stated in the program statement that the specified population of children to be served by the program requires this experience.

- s. (1) Social Work Activities - One of the three program components of the standardized rate setting system. These activities are as specified in the August 30th Report, Attachment A, subparagraphs (a) and (b) except as restricted by the August 30th Report, "FUNDING FROM OTHER SOURCES," page 6.

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Social work activities as provided in the August 30th Report state in relevant part:

"(A) Development of needs and services plan; development of discharge plan; assessment to identify changing needs.

1. Psychological and psychometric testing is not considered a social work activity.

(B) Interaction (counseling) between the employee and the child and/or others aimed at preparing the child to analyze and better understand the situation is included in Social Work Activities. Specifically, this includes helping the child understand the reason for placement and to handle associated emotional problems, resolving the difficulties between child and family that led to the need for placement, and planning for the return of the child."

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- (2) Social Worker - An individual qualified to perform social work activities who has at least a Master's Degree, from an accredited or state approved graduate school, in social work or social welfare; marriage, family, and child counseling; child psychology; child development; counseling/ psychology; clinical psychology; social psychology; Master's Degree with another title, the purpose of which was to train persons to provide social work activities; or a Baccalaureate Degree in social work or social welfare and at least two years of experience in providing social work activities ~~including the experience which~~ may include where the social work activities were performed in mental health settings.
  - (3) Specialized Care Increment - an amount paid to a family home in addition to the family home basic rate on behalf of an AFDC-FC child requiring specialized care because of health and/or behavior problems.
  - (4) Specialized Care Rate - the total rate paid on behalf of an AFDC-FC child requiring specialized care. Such rate includes both the family home basic rate and the additional specialized care increment.
  - (5) Specialized Care System - any mechanism utilized by a county to pay family homes, as defined in Section 11-400.2, a rate greater than the county's basic foster care rate on behalf of an AFDC-FC child placed in emergency shelter care or with care needs greater than those of a normal foster child, because of health and/or behavior problems.
- t. (1) Training Log - A compilation of documentation necessary to verify the on-going training that was provided to child care workers and first-line supervisors. Documentation for each training session shall include the date of training; location of training; subject of training; names of staff attending and their classifications; hours of training; name of qualified trainer(s); documentation showing provider paid any costs for training, including employee wages and benefits; listing of the materials distributed and used by the trainer; and type of training, i.e., in-person, video, onsite, offsite.

- (2) Training Plan - A prospective summary of on-going training to be provided for child care workers and first-line supervisors which shall include at a minimum, a projection of the total staff hours of training, the general subject matter of the anticipated training and any information within the categories listed under "training log" that are known to the provider at the time of application. A group home program's training plan must be ~~applied~~ submitted to ~~by~~ the Department as part of the rate application process.

u. (Reserved)

v. (Reserved)

w. (1) Weighting/Weighted - The factor applied to the eligible hours in each of the three program components to determine the number of points.

x. (Reserved)

y. (Reserved)

z. (Reserved)

Authority Cited: Sections 10553, 10554, 11462(j), and 11466.1, Welfare and Institutions Code and Chapter 1294, Statutes of 1989, Section 23.

Reference: Sections 10852, 11460, 11462, 11466.1, 11466.2, 11466.3 and 18350, Welfare and Institutions Code, The Classification of Group Home Program Under the Standardized Schedule of Rate System Report, August 30, 1989, and Title 8, California Code of Regulations, Section 11050, Industrial Welfare Commission Order 5-89.

Amend Section 11-402 to read:

11-402 GROUP HOME RATE SETTING

11-402

.1 Group Home Rate Determination Process - General Overview

- .11 The Department shall determine the RCL for each group home program utilized for AFDC-FC placements to set a rate using the standardized schedule of rates.
- .12 The RCL shall be determined using points which measure the number of weighted eligible hours per child per month of CCS, Social Work Activities, and Mental Health Treatment Services.
- .13 The number of points determine the RCL for each group home program.
- .14 There is a corresponding standard rate for each RCL.
- .15 The standardized schedule of rates for fiscal year 1990-91 is specified in Welfare and Institutions Code Section 11462(g).

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.151 Welfare and Institutions Code Section 11462(g) provides:

Rate Classification Level	Point Ranges	Standard Rate	FY 1990-91 Rate Floor (85%)
1	under 60	\$1,183	\$1,006
2	60-89	1,478	1,256
3	90-119	1,773	1,507
4	120-149	2,067	1,757
5	150-179	2,360	2,006
6	180-209	2,656	2,258
7	210-239	2,950	2,508
8	240-269	3,245	2,758
9	270-299	3,539	3,008
10	300-329	3,834	3,259
11	330-359	4,127	3,508
12	360-389	4,423	3,760
13	390-419	4,720	4,012
14	420 & up	5,013	4,261

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- .16 The standardized rate schedule for fiscal year 1990-91 shall be adjusted by an amount equal to the California Necessities Index (CNI) for fiscal years 1991-92 and 1992-93.
- .17 Beginning with fiscal year 1993-94, the standardized scheduled of rates shall be adjusted annually by an amount equal to the CNI, subject to the availability of funds.
- .18 In order to qualify for rate classification levels of 13 or 14 the program shall meet the requirements of Welfare and Institutions Code Section 11462(g)(2).

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- .181 Welfare and Institutions Code Section 11462(g)(2) states:

"Group home programs which generate the requisite number of points for RCL 13 or 14, which only accept children with special treatment needs as determined through the assessment process in subdivision (b) of Section 11467 and which have as part of their program measurable performance standards developed by the county of placement, shall be classified at RCL 13 or 14."

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- .19 Exceptions to the RCL determination from July 1, 1990 through June 30, 1992 are specified in Section 11-402.9.
- .2 Program Classification
  - .21 Eligible Hours for Program Components
    - .211 Child Care and Supervision (CCS)
      - (a) Eligible hours of CCS shall be determined by counting paid-awake hours of child care workers and first-line supervisors while performing child care duties.
      - (1) Each group home program shall be required to provide child care duties and report eligible CCS hours.



- (2) Hours of vacation, sick leave, training time or other types of leave shall be counted at the time paid. These hours are not subject to the 54-hour limitation.
- (3) No more than 54 hours per week per child care worker and first-line supervisor per provider shall be projected on the Program Classification Report, SR 2 (Rev. 3/90) Column 2, line 16.
- (4) More than 54 hours per week per child care worker and first-line supervisor per provider may be reported on the SR 2 (Rev. 3/90) Column 2, lines 1 through 12 when:
  - (A) The employee was required to work the additional hours of CCS to prevent children from being in an unhealthy or unsafe situation, and
  - (B) The employee was compensated for the additional hours of CCS in a manner consistent with the Department of Industrial Relations, and
  - (C) The employee was not required to work in excess of 54 hours on a regular basis.
- (5) Hours shall be allocated as required by the August 30th Report, page 5.

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- (A) The August 30th Report, Page 5, ALLOCATION OF HOURS AMONG FUNCTIONS, states:  
  
"ALLOCATION OF HOURS AMONG  
FUNCTIONS

Some group home staff perform more than one function. For the program classification purposes, the group home provider will be required to allocate the hours worked by such staff among the various functions they perform.

For example, the administrator of a group home also spends part of his/her time performing social work activities and supervising child care staff. The provider states that the administrator typically works a 60-hour week, spending 30 hours performing administrative tasks, 15 hours performing Social Work Activities, and 15 hours supervising child care workers. The allocation of the administrator's time is 50% for administration, 25% for social work, and 25% for child care and supervision. The time spent on administration does not fall into one of the three program components and cannot be counted for program classification purposes. Given the 54-hour cap, 13.5 hours (25% of 54 hours) can be counted for program classification purposes as Social Work Activity and 13.5 hours can be counted as Child Care and Supervision. These hours can be weighted to reflect the administrator's experience, education, ongoing training, and professional qualifications."

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- (6) Eligible hours do not include hours of care and supervision given solely to children living with their minor parent(s) and receiving an infant supplement payment.

.212 Social Work Activities

(a) Eligible hours of social work activities shall be determined by counting the paid-awake hours of social workers while performing social work activities performed by social workers.

(1) Hours of vacation, sick leave, or other types of employee leave shall be counted at the time paid. These hours are not subject to the 54-hour limitation.

(2) No more than 54 hours a week per social worker per provider shall be projected on the SR 2 (Rev. 3/90) Column 2, line 16.

(A) Eligible hours of social work activities performed under the terms of a direct contact contract which are given the additional weighting of 2.0 [see Section 11-402.222(d)] shall be doubled to determine an individual's hours for the 54-hour limit.

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(B) Example: An LCSW provides five hours of social work activities under the terms of a direct contact contract. The weighted social work hours for this individual prior to application of the additional 2.0 direct contact contract weighting are 12.5. However, after applying the additional 2.0 weighting the total weighted hours increases to 25. In determining the individual's hours for the 54-hour limit, 25 hours shall be countable.

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(3) More than 54 hours a week per social worker per provider may be reported on the SR 2 (Rev. 3/90) Column 5, lines 1 through 12 when:

(A) The social worker was compensated for the additional hours of social work activities in a manner consistent with the Department of Industrial Standards, and

(B) The social worker was not required to work in excess of 54 hours on a regular basis.

(4) Hours shall be allocated as required by the August 30th Report as specified in Section 11-402.211(a)(5).

(5) A group home employee functioning as an existing social worker shall be considered a social worker and have his/her hours counted as social work activities if:

(A) The employee has been identified and claimed as a social worker in the same program under the cost-based rate setting system prior to July 1, 1990, and

(B) The employee does not ~~not~~ meet any of the degrees ~~of~~ and equivalents as defined in Section 11-400s(2).

(6) Family reunification activities and services provided solely to the family that are not in direct relation to the child's case plan shall not be counted as eligible social work activity hours.

#### .213 Mental Health Treatment Services

(a) Eligible hours of mental health treatment services shall be determined by counting the paid-awake hours of the licensed mental health professional while providing mental health treatment services.

- (1) Hours shall be allocated as required by the August 30th Report and as specified in Section 11-402.211(a)(5).
- (2) Hours that include other staff, such as child care workers, social workers or group home administrators, etc., are counted when the child is also included.
- (3) The licensed mental health professional's time is counted, not the child's time.

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- (A) A licensed mental health professional in a one-hour group session with four children is counted as one hour of mental health treatment time.

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- (4) One hour shall be counted for the licensed mental health professional's evaluation of each psychometric test administered by the licensed mental health professional.

## .22 Weightings for Program Component Hours

### .221 Child Care Supervision (CCS) Weightings

- (a) Each child care worker and first-line supervisor shall have a base factor of 1.0 for each eligible hour.
- (b) Additional weighting shall be given to each eligible CCS hour on the basis of the experience and/or education of individual staff or the provision of on-going training by the provider for child care workers and first-line supervisors. The maximum additional weighting for any staff is 0.75.

(c) Residential Child Care Experience

- (1) Each child care worker and first-line supervisor shall receive additional weighting for ~~each~~ ~~eligible hour of~~ previous paid-awake experience in residential child care ~~as follows~~ specified in Section 11-400r.(2) as follows.

- (A) Twenty-four (24) through 47 months of full-time equivalent (FTE) experience shall qualify for additional weighting of 0.15.
- (B) Forty-eight (48) months or more of full-time equivalent (FTE) experience shall qualify for additional weighting of 0.25.

(d) Formal Education

Each child care worker and first-line supervisor shall receive additional weighting for each eligible hour of CCS based on his/her formal education as follows:

- (1) Sixty (60) semester units or its equivalent as listed below shall receive an additional weighting of 0.05.
- (A) An Associate of Arts or Science Degree that requires less than 60 units for completion, or
- (B) A certificate in a subject directly related to child care that requires less than 60 semester hours but more than 20 semester hours in courses that deal with child related subjects.
- (C) A certificate in a subject directly related to drug and alcohol programs from an accredited course of study that requires less than 60 semester hours when:

- (i) The individual is employed by a group home program with the criteria described in Section 11-402.33411 (f)(6), and
  - (ii) The course of study gave the individual the choice of either track, i.e., the Associate of Arts Degree or the certification program.
  - (iii) Certificates include but are not limited to the following: alcohol and/or drug counseling, dependency specialist, or abuse studies.
- (2) A Bachelor of Arts or Science Degree in a major that is not related to the behavioral sciences shall receive an additional weighting of 0.10.
- (3) A Bachelor of Arts or Science Degree in one of the behavioral sciences or other equivalent disciplines listed in (A), (B), or (C) below relevant to the provision of services to foster care children to be served by the group home program shall receive an additional weighting of 0.25.
  - (A) A certificate from the California Association of Alcohol and Drug Abuse Counselors as a Certified Alcohol Counselor, Certified Drug Counselor or Certified Alcohol and Drug Counselor based on an accredited course of study plus the required supervised experience when the program statement specifies the population of children to be served by the program requires this professional level.

- (B) A certificate directly related to drug and alcohol programs from an accredited course of study that requires 60 semester hours or more but less than four years may receive the additional weighting when/:
- (i) The individual is employed by a group home program, which accepts chemically addicted children as described in Section 11-402.358411(a)(6), and.
  - (ii) The course of study gave the individual the choice of either track, a Bachelor's Degree, or the certificate program.
- (C) A vocational training certificate or credential or documentation stating the individual is a trade journeyman and instructs vocational skills to children in a vocational program as described in Section 11-402.358411(fa)(26)(A).
- (4) A Master's Degree in a behavioral science or other equivalent discipline listed in (A) below shall receive an additional weighting of 0.40.
- (A) The individual teaches vocational skills to children in placement, and the provider:
    - (i) Has documentation showing the individual is a licensed contractor, or
    - (ii) Has documentation showing the individual is a journeyman in more than one vocational trade.



(e) On-Going Training

- (1) Each eligible hour of CCS shall receive an additional weighting of 0.10 when an average of 40 or more hours of on-going training per person (full-time equivalent) per year is provided. See definition of on-going training at Section 11-400o.(1).
- (2) The number of hours of on-going training required by a group home program to qualify for the additional weighting shall be computed by:
  - (A) Determining the number of FTE CCS staff by: dividing the total number of eligible CCS hours by the number of full-time hours in the same time period (i.e., 40 hours per week or 173 hours per month) and
  - (B) Multiplying the number of FTE CCS staff by 40.

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- (C) Example: The ABC group home has five child care workers who work from 15 to 54 hours per week and one full-time first-line supervisor. The combined number of hours they are expected to work in the next 12-month period is 12,636. Divide the hours worked by 2080 (annualized full-time equivalent based on a 40-hour work week) = 6.075 FTE. Multiply the 6.075 FTE by 40 hours per employee = 243 hours of training the provider must provide for all eligible CCS hours to be weighted by the additional 0.10.

- (D) An example of eligible allocated hours counted toward on-going training is: Helen is the cook in the ABC group home program, but for two hours each afternoon she has responsibility for supervising a group of children. She meets the CCL requirements for a child care worker. The hours of training she receives, relevant to her child care duties, are countable for the training time furnished by the provider toward the additional CCS weighting of 0.10 for all CCS hours.

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(3) The following types of training shall qualify as on-going training for weighting purposes.

- (A) All training required by Community Care Licensing (CCL) for child care workers as specified in Title 22, Division 6, Sections 84065(h)(1) and 80065(e)(2).

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- (i) Section 84065(h)(1) states in part: "...child care staff (shall be required) to receive...a minimum of 20 clock hours of continuing education during the first 18 months of employment and during each three years thereafter."

- (ii) Section 80065(e)(2) states: "Adults who supervise while clients are using a pool or other body of water from which rescue requires the rescuer's ability to swim, shall have a valid water safety certificate."

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- (B) The training shall be directly related to the individual's child care worker duties.
- (4) Audio or video tape training shall be counted provided:
- (A) It is used within the structure of a group training setting.
- (B) The subject is introduced in person by a qualified individual, and
- (C) Audience interaction with the qualified individual is available.
- (5) Audio or video ~~T~~ape training shall not qualify when the provider supplies the training package and sends it home with ~~different~~ individual employees to view on their own time.
- (6) The on-going training hours for a group home program shall be allocated among all staff.

.222 Social Work Activities Weightings

- (a) Weightings shall be given to each eligible hour of social work activity based on the professional level of each social worker as specified in the August 30th Report, page 3.

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The August 30th Report states in part:

- "(1) Licensed Clinical Social Worker  
(LCSW) 2.5
- (2) Licensed Marriage, Family and  
Child Counselor (LMFCC) 2.5
- (3) Master's of Social Work  
(MSW) (60 units) 2.0
- (4) Master's of Science in  
Counseling (MSC) (60 units) 2.0
- (5) Master's (30 units) in a discipline  
which would enable the individual to  
sit for the LMFCC or  
LCSW exam. 1.75
- (6) Bachelor of Social Work (BSW) with  
at least two years of full-time  
equivalent experience. 1.5"

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- (b) In addition to the above weightings, each eligible hour of social work activity performed by a group home employee who meets the requirements of Section 11-402.212(a)(5) shall be eligible for the weighting of 1.5 .
- (c) All individuals, whether employee or under contract, receive the same weighting for their professional level.
- (d) Each weighted eligible hour of social work activities provided under the terms of a  
THE WEIGHTING FOR THE direct contact  
contract social work hours provided on a  
contractual basis shall be multiplied by 2.0 under the subject to the following restrictions:
  - (1) The contract only reimburses for those hours spent in direct contact with the child(ren) being served and does not reimburse for ancillary social work activities, such as the development of needs and services plans or discharge plans;

(2) A maximum of 20 hours per week per social worker, of the contracted direct contact social work activities shall be multiplied by 2.0.

(3) The person providing the social work activities is not an employee of the group home provider.

(A) The relationship between the group home provider and the individual providing social work activities shall be evaluated by several factors, including but not limited to:

(i) The group home has no control over the manner and means by which the individual providing the social work activities outside those listed in the contract performs his/her services.

(ii) The payment for social work activities performed is based on completion of the specifics in the contract.

(iii) The group home provider and the individual providing the social work activities do not view the work relationship as one of employee/employer.

1177 THE CONTROL ACTUALLY EXERCISED BY THE GROUP HOME PROVIDER OVER THE INDIVIDUAL IS IN THE PROVISION OF DIRECT CONTACT SOCIAL WORK ACTIVITIES.

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- (iv) Example: The weighting for an LCSW providing contracted social work activities for direct contact with the children is computed as; one hour of service x 2.5 LCSW x 2.0 "direct contact" = 5.0.

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.223 Mental Health Treatment Services Weightings

- (a) Weighting shall be given to each eligible hour of direct contact mental health treatment services provided by a mental health treatment services professional based on the professional level of the individual as specified in the August 30th Report, page 4.

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The August 30th Report, states in part:

"(1) Psychiatrist	5.0
(2) Psychologist	5.0
(3) Licensed Clinical Social Worker (LCSW)	2.5
(4) Licensed Marriage, Family and Child Counselor (LMFCC)	2.5"

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- (b) In addition to the above weightings, each eligible hour of mental health treatment services provided by a licensed mental health professional whose license status is unknown and whose reimbursement is from any source other than AFDC-FC, shall be eligible for the weighting of 2.5.

.23 Point Computation

- .231 Each eligible hour, as determined in Section 11-402.21, shall be multiplied by the weighting(s) attributed to each individual as determined in Section 11-402.22.

.232 The weighted hours for each program component shall be totaled separately.

.233 The separate program component's weighted hours shall be divided by the greater of 90 percent of the licensed capacity of the group home program or 5.4 to determine each of the program component's point scores except as provided below:

(a) When the licensed capacity includes an unspecified mixture of children and minor parents and their infants in placement, divide the number of weighted hours by 90 percent of the total number of minor parents and other nonparent minors excluding child(ren) living with his/her minor parent in placement. This applies only to such programs where the licensed capacity includes the children receiving an infant supplement.

.234 Providers shall report the actual number of mental health treatment services points per child, per month, for each program, on an SR 2 (Rev. 1/90).

(a) The mental health point score shall be determined as specified in the August 20th Report/ page 4/ follows:

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(a) The August 20th Report limits the mental health point score as follows:

No program is allowed more than 30 points for mental health treatment services. This 30 point cap/ counts up to 6 hours per child per month of mental health treatment services by a psychologist or 12 hours per child per month by an LCSW or an LMFT/ or any combination that does not exceed 30 points/

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- (1) The actual number of eligible mental health treatment services hours provided shall be reported for each month.
  - (2) The appropriate weightings shall be applied to the eligible hours and reported for each month.
  - (3) The number of weighted hours shall be divided by 90 percent of licensed capacity to determine the number of points and reported for each month.
  - (4) The total number of mental health treatment services points for the report period shall be reported.
  - (5) The average number of mental health treatment services points for the report period shall be reported.
- (b) The mental health treatment services points for ~~number~~ of children enrolled in a full-time mental health day treatment program shall be the ratio of the number of children in day treatment to ~~computed~~ as a percentage of the group home program's total licensed capacity. These mental health treatment services points for that month shall be reported without documenting hours, license, or professional level of the licensed mental health professional. See Section 11-402.239(c).
- (c) The Department shall limit the mental health treatment services points to be counted in any one month to 60.
- (d) The Department shall limit the average points for mental health treatment services to 30 per month.

.235 The point scores from each of the three program components shall be totaled to determine the program points.

.236 The RCL shall be determined by comparing the program's points to the table of standardized schedule of rates in Section 11-402.15.



- .237 The projected points shall be the average for the level of care and services to be provided over the 12-month period.
- .238 The reported points shall be the actual number of points in each month which represent the level of care and services provided over the 12-month reporting period.

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- .239 An example of a group home program point computation:

(a) CCS point computation

- (1) The XYZ group home program is licensed for six children and has four full-time equivalent child care workers. The provider has a training plan of more than 40 hours of training for the child care workers and first-line supervisors (0.10 additional weighting for each eligible CCS hour). Each child care worker and first-line supervisor has 1.35 total weightings. Two examples are:

(A) Irma has five years of residential child care experience (additional weighting of 0.25) and 15 semester units of college (no additional weighting) for 1.35 total weighting (1.0, base factor + 0.10, on-going training + 0.25/experience).

(B) Irene has one year of child care experience (no additional weighting) and a Bachelor's Degree in Sociology (0.25 additional weighting) for 1.35 total weighting (1.0, base factor + 0.10, on-going training + 0.25, education).

- (2) Total CCS hours are 866.6 (50 average hours per week X 4 individuals X 4.333). The total weighted CCS hours per month are 1,169.91 (866.6 X 1.35); divided by 5.4 = 216.65.

(b) Social work point computation:

- (1) The same group home program currently employs a Licensed Clinical Social Worker (LCSW) for 20 hours per week or 86.67 hours per month ( $20 \times 4.333$ ).

The weighted social work hours per month for this social worker are 217.5 ( $87 \times 2.5$ ).

- (2) Another LCSW provided direct contact social work activities based on a contract for 80 hours per month.

(3) The weighted social work hours per month for this social worker are 400 ( $80 \text{ hours} \times 2.5 \text{ professional level weighting} \times 2.0 \text{ "direct contact" contract additional weighting}$ ).

- (3) Total social work weighted points are 617.5 ( $217.5 + 400$ ), divided by 5.4 for 114.35 points attributed to social work.

(c) Mental health point computation:

- (1) The group home program averages six children in placement per month:

(A) Two children in a mental health day treatment program;

(B) Three others seen by a psychologist in a group therapy session at the group home for one hour a week; and

(C) One other seen in private sessions in a clinic two hours a week by a psychiatrist.

- (2) The weighted mental health hours are:

(A) For mental health day treatment: two children =  $\frac{2}{6}$  of the maximum mental health points (30) for a total of 10.

- (B) For the psychologist: Four hours X 5.0 professional weighting = 20 weighted hours per month.
- (C) For the psychiatrist: Eight hours per month X 5.0 professional weighting = 40 weighted hours.
- (3) Total mental health points are: 20 (psychologist) + 40 (psychiatrist) = 60 divided by 5.4 = 11.11 + 10 (day care) = 21.11.
- (d) Total point computation:
  - (1) Add the points for CCS (216.65), social work activities (114.35) and mental health treatment services (21.11) for a total of 352.11.
  - (2) The XYZ program total points are 352 which is in Rate Classification Level 11.

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### .3 Group Home Annual Rate Application Process

- .31 Each provider shall submit to the Department a completed rate application for each program each fiscal year in order to receive a rate for that program.
- .32 Annual rate applications shall be postmarked on or before May 1.
  - .321 An application not postmarked by the due date shall be considered late.
  - .322 Providers shall be allowed to request a determination of good cause for submitting a late application as specified in Section 11-402.37.
  - .323 Providers who do not request a determination of good cause for submitting a late application shall be subject to the penalty provisions specified in Section 11-402.38.

- .33 A rate application shall be considered complete when all required forms have been completed with the necessary information and supporting documentation, as required in Section 11-402.35 needed to determine the RCL, have been submitted to the Department.
- .331 Providers shall be allowed to request a determination of good cause for submitting an incomplete application as specified in Section 11-402.37.
- .34 The effective date of the rate for timely and complete rate applications shall be July 1.
- .35 An annual rate application with no program changes shall include:
- .351 A complete Group Home Program Rate Application, 1SR 1 (Rev. 2/90)Y/i
- .352 A complete Program Classification Report, 1SR 2 (Rev. 3/90)Y/i
- .353 A copy of the ~~current~~ license issued by CCL in accordance with Title 22, California Code of Regulations, Division 6, for each facility, if not ~~previously~~ submitted ~~to the Foster Care Rates Bureau~~ with a previous rate application;
- .354 For any tax exempt agency, a copy of the Internal Revenue Service (IRS) letter designating the provider as tax exempt, if not ~~previously~~ submitted ~~to the Foster Care Rates Bureau~~ with a previous rate application;
- .355 The group home on-going training plan/; and
- .356 A certification by the provider that all information contained in the program statement previously submitted remain current with no changes. A current program statement which shall include the following:
- .36 The following cost-related information shall be provided with the rate application package. All penalties listed for late or incomplete application shall apply to these documents as specified in Sections 11-402.37 and 138.
- .361 A complete Group Home Program Cost Report, 1SR 3 (Rev. 3/90)Y/i

- .362 A complete Group Home Program Payroll and Fringe Benefit Report, [SR 4 (Rev. 1/90)]/ and
- .363 A complete Group Home Program Days of Care Schedule, [SR 5 (Rev. 1/90)]/.
- .37 The Department's good cause ~~and penalty~~ procedures shall be as follows:
- .371 Providers unable to submit a timely or complete rate application by May 1 shall be allowed to submit in writing, a request for a determination of good cause as defined in Section 11-400g(1) ~~and~~ which shall be postmarked within 10 five calendar days of the application due date.
- (a) The request shall contain the following:
- (1) A clear statement that this is a request for determination of good cause.
  - (2) The specific reason(s) for submitting an incomplete or untimely application.
  - (3) The provider's name, address and phone number.
  - (4) The name, address and phone number of the person to be notified regarding the determination of good cause.
  - (5) The name, location and program number of the affected program(s).
- .372 Within 10 calendar days of the postmarked date of ~~receipt of~~ the request for a determination of good cause, the Department shall make a determination of good cause ~~the validity of the request~~ and shall notify the provider ~~verbally~~ and in writing of the ~~findings~~ determination.
- ~~1a) If the provider is found to have good cause, he/she shall be allowed to submit the rate application within a time acceptable to both the provider and the Department.~~

(a) When the Department determines there has been good cause for a late or incomplete filing of an application the Department shall notify the provider that a complete application is due within 30 days of the postmark of the notification.

(1) For complete applications submitted in accordance with Subsection (a), the effective date of the rate shall be July 1.

(2) Applications which are incomplete or are not submitted within the 30-day period in Subsection (a) shall be subject to the penalties in Section 11-402.38.

*10Y* *If the provider is found not to have good cause/ or did not request a determination of good cause/ the following actions shall be taken/*

*11Y* *The rate shall be set based on the limited information available/*

*12Y* *The effective date of the rate shall be August 1 unless the RCL as determined is lower than the current or projected rate/ in which case/ the date of the rate shall be retroactive to July 1/*

*13Y* *If the rate cannot be set based on the limited information/ the Department shall proceed with the rate determination process as specified in section 11-402.38/*

(b) When the Department determines there is no good cause for a late or incomplete filing of an application, the Department shall notify the provider in writing that a complete application must be submitted prior to the first of the next calendar month to avoid additional late penalties.

(1) The rate shall be set in accordance with the appropriate late or incomplete application penalties specified in Section 11-402.38.

.38 The Department's penalty procedures for late or incomplete applications shall be as follows:

.381 For a late application:

(a) Submitted after May 1 and before June 1, the rate shall be effective August 1 unless:

(1) The new rate is less than the old rate, the effective date shall be retroactive to July 1.

(b) Submitted on or after June 1 but before July 1, the rate shall be effective September 1 unless:

(1) The new rate is less than the old rate, the effective date shall be effective, retroactive to July 1.

(c) Not submitted by July 1, the group home program shall be subject to the rate termination process as specified in Section .39.

.382 For an incomplete application which is later completed:

(a) After May 1 but before June 1, the effective date of the rate shall be the same as for a late application in Sections .381(a) and (a)(1).

(b) On or after June 1 but before July 1, the effective date of the rate shall be the same as for a late application in Sections .381(b) and (b)(1).

.383 For an incomplete application that remains incomplete after July 1:

(a) The rate shall be set based on the limited information available.

(1) The effective date of the rate shall be August 1 unless the rate as determined is lower than the current rate, in which case, the date of the rate shall be retroactive to July 1.

- (b) If the rate cannot be set based on the limited information, the Department shall proceed with the rate termination process as specified in .39.

.389 The Department's rate termination process shall be as follows:

1381 The Department shall immediately conduct a program audit following the procedures in Section 11402/3/

1a) If the provider meets the application requirements, he/she shall be allowed to apply for a program reinstatement/

1b) If the provider does not meet the reinstatement application requirements, the provider, CCY, and the county/ies shall be provided with a 60-day written notice of termination including the provider's appeal rights as specified in Welfare and Institutions Code Section 11468/2/

.391 The Department shall provide notice to the provider of the rate termination date. The notice shall:

(a) Be in writing,

(b) Allow 60 days from the postmarked date of the notice prior to termination, and

(c) Include the provider's appeal rights as specified in Welfare and Institutions Code Section 11468.2.

(d) A copy of the notice shall be sent to the host county, the primary placing county and any other counties which may be affected by the rate termination and which can be identified by the Department.

.3892 On the first of the month following sixty days following after the receipt postmarked date of the termination notice, the Department shall terminate the rate for that program.



.4 Deviations from Annual Rate Setting

.41 New Program

.411 An initial rate application from an existing provider for a new program shall include all required forms and information listed in Sections 11-402.351 and 136 through .355 with the following additional requirements:

136 (a) A new and complete program statement shall be submitted with each initial rate application. The program statement shall include the following until such time as a standardized program statement is implemented pursuant to Welfare and Institutions Code Section 11467(a):

(~~1~~) The goals and purpose of the program/,

(~~2~~) The characteristics of children served/,

(~~3~~) Organizational chart and administrative information including ~~a listing of~~ names, addresses and titles of all members of the Board of Directors, names of all corporate officers, and all names of the partners/ etc/ as appropriate/,

(~~4~~) A description of the type and level of social services and mental health treatment services offered/,

(~~5~~) A job duty statement for each classification utilized by the group home/ and

(~~6~~) A description of special program services.

(1A) If applicable, the vocational training program offered within the program.

(2B) A program which has vocational training for children in placement is one which is designed to impart to the children in placement the skills necessary for a vocation or trade.

(~~AC~~) A vocational training program shall qualify if the program:

- (i) Teaches a skill(s) which benefits the child;
- (ii) Provides instruction which includes hands-on experience and specified quantifiable training goals;
- (iii) Consumes a percentage of the children's day at regularly scheduled hours;
- (iv) Sustains costs for qualified staff, costs for equipment, materials and the space required for the training;
- (v) ~~Does~~ Is not ~~receive~~ fund~~ing~~ ed ~~from~~ by the Department of Education for the vocational training provided;
- (vi) Does not provide educational credit to the children in placement;
- (vii) Is an integral part of the group home program and is not the result of coincidental factors such as hiring of a child care worker(s) or first-line supervisor(s) who happen to have vocational skills; and
- (viii) Is not transitory and does not depend upon the continued employment of child care worker(s) and first-line supervisor(s).

(d) Providers who are discontinuing any group home program(s) in favor of a new program shall submit the cost information on forms SR 3 (Rev. 3/90), SR 4 (Rev. 1/90) and SR 5 (Rev. 1/90) shall be completed using the reported actual costs for any months of operation of the discontinued program prior to the new program not previously reported as part of the annual rate application process.

(e) An initial rate application from an existing provider shall include the placement agency recommendation from the host or the host and primary placing counties as appropriate and as specified in Section 11-406.12.

(f) A copy of the license issued by CCL in accordance with Title 22, California Code of Regulations, Division 6.

.412 The effective date of a new program rate shall be the date of the departmental approval of the projected RCL.

.413 The rate for a new program shall be the rate floor for that program's projected RCL.

.414 Applications for new programs which do not meet the requirements of Section .411 shall be subject to Section 11-402.43, Program Changes.

.42 New Provider

.421 A new provider shall be as defined in Section 11-400n(4).

(a) For foster care group home rate setting purposes, a new provider shall not be any of the following:

(1) The addition of a new program by an existing provider.

(2) Any change specified in Section 11-402.43, Program Changes.

- (3) A change or reorganization in the provider's incorporation and/or a reorganization of the his/her administration.
- (4) A provider who fails to submit an annual rate application for an on-going program.
- ~~1424~~ (b) Applications for new providers ~~and new programs~~ which do not meet the requirements of this ~~section~~ shall be subject to ~~the regulations in~~ Section 11-402.43, Program Changes.
- .422 An initial rate application from a new provider shall include all required forms and information listed in Sections 11-402.351 ~~and 11-402.355~~ through .355 with the following additional requirements:
- (a) A complete program statement shall be submitted which shall include all the appropriate documentation and information as listed in Section 11-402.411(a).
- (b) The cost information forms (SR 3/ (Rev. 3/90), SR 4/ (Rev. 1/90) and SR 5/ (Rev. 1/90) shall be completed with identifying projected costs when the application is submitted by a new provider.
- (c) Initial rate application shall include the placement agency recommendation from the host or the host and primary placing counties as appropriate and as specified in Section 11-406.12.
- (d) A copy of the license issued by CCL in accordance with Title 22, California Code of Regulations, (CCR) Division 6.
- ~~1423~~ Initial rate application documents shall be submitted to the Department prior to the first placement.
- .424 The effective date of the rate for a new provider shall be the later of:
- (a) Date of first placement, or

(b) Departmental approval of the projected RCL, or

(c) Date of licensure.

.425 The rate for a new provider shall be the floor of the projected RCL.

.43 Program Changes

.431 A program change shall be as defined in Section 11-400p(6).

(a) For purposes of rate setting, a program change shall include a change to:

(1) The number of beds for the program, except as follows:

(A) The first increase of five or fewer beds in the lifetime of a program with no change to the program's RCL based on the number of points computed in accordance with Section 11-402.23.

(i) Calculate the RCL for the program based on the proposed expansion to verify that the RCL after the expansion is the same as the RCL approved by the Department for the program; and

(ii) Contact the Department to inform of capacity change and point determination.

(2) Conditions or limitations described on the license which necessitates submission of a new license application as required by Title 22, Division 6, Section 80034(a).

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A licensee shall file a new application as required by Title 22, Division 6, Section 80018 whenever there is a change in conditions or limitations described on the current license, or other changes including, but not limited to, the following:

- (1) Any change of licensee, including, but not limited to, the following when the licensee is a corporation.
  - (A) Sale or transfer of the majority of stock.
  - (B) Separating from a parent company.
  - (C) Merger with another company.

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- (b) ONLY ONE PROGRAM CHANGE PER PROGRAM SHALL BE ALLOWED PER PROGRAM IN A FISCAL YEAR/ A group home provider shall report any proposed program change to the Department, in compliance with the requirements for program change application specified in Section 11-402.432.
  - (1) The program shall continue to receive the existing rate.
- (c) The Department shall determine the correct RCL for a group home program based on data submitted by the provider in the program change application specified in Section .432.
- (d) Failure to report a program change, or of the resulting rate of which is a decreased rate, as described in Section .435, shall result in the assignment of an overpayment and the adjustment of the current rate as appropriate following a program audit as specified in Sections 11-402.5 and .6.

- (e) The Department shall establish an increase in rate amount only for the first group home program change application for a program for a fiscal year; a subsequent program change shall not affect the program's rate until the following fiscal year unless the change results in a decreased rate.

.432 An application for an RCL change or a program change shall include ~~all required forms and information listed in sections 11-402.13 and 1361:~~

- (a) A complete Group Home Application, (SR 1, Rev. 2/90).
- (b) A complete Program Classification Report, (SR 2, Rev. 3/90).
- (c) An amended program statement reflecting the change and containing the elements specified in Sections 11-402.411(a)(1) through (6).
- (d) Providers making program changes affecting more than one program, that is, discontinuing one program in favor another as described in Section 11-402.435(c)(1) or otherwise discontinuing a program, shall submit the cost information forms [SR 3 (Rev. 3/90), SR 4 (Rev. 1/90), and SR 5 (Rev. 1/90)] using actual costs for the program to be discontinued based on the months not previously reported as part of the annual rate application process.

(d) .433 A program change application projecting an increase of an RCL level to a group home program shall be accompanied by the placement agency recommendation, as specified in Section 11-406.12 except one change application for the first RCL increase in the lifetime of a provider program shall not be accepted. Therefore applications for RCL changes shall require the placement agency recommendation, as specified in section 11-406.12.

.4324(d) A program change application shall be submitted prior to the effective date of the change but no later than 30 days after the change.

.4375 The effective date of the rate for program changes, by the type of change, shall be:

(a) For the RCL which is not changing:

(1) For an increase in licensed capacity greater than five in the same or a new facility, ~~with no RCL change~~ the effective date shall be the later of:

(1A) Date of first placement/; or

(1Z) ~~Date of Departmental Approval~~

(1B) Date of group home license approval.

(2) For a decrease in licensed capacity, the effective date shall be the date of the decrease.

(b) For the RCL which is changing:

(1) For a decrease in RCL, the effective date shall be the date of the decrease implementing operation of the program at the lesser RCL.

(2) For an increase in RCL, the effective date shall be the first of the month after the increase later of the provider's proposed effective date on the Group Home Program Rate Application, SR 1 (Rev. 2/90) submitted for the program change or 30 days after the postmark on the program change application.

(c) For changes affecting more than one program operated by one or different providers, the effective date shall be the later of the provider's proposed effective date on the SR 1 (Rev. 2/90) form(s) or 30 days after the postmark on the program change application(s).

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Examples of these changes are:

(1) Discontinuing one group home program in favor of another.



(2) Combining of two or more providers who propose to continue operating a group home program(s) but to change the administrative or corporate structure which was characterized to the Department at the time the rates for the most recent fiscal year were established.

(3) Assuming operation of a group home program which was formerly operated by another provider.

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.4346 The rate following a program change by the type of changes shall be:

(a) For the RCL which is not changing:

(1) For ~~any~~ increase in licensed capacity, except as specified in .431(a)(1)(A), the rate shall be the lesser of:

(1A) The existing rate prior to the program change; or

(1B) The standard rate for its RCL.

(2) For ~~any~~ decrease in licensed capacity, the rate shall be the existing rate.

(3) For a change in the type of placement or staffing pattern, the rate shall be the existing rate.

*(c) An opening or closing of a facility, the rate shall be the existing rate.*

*(d) Changes in a provider's administrative or corporate structure, the rate shall be the existing rate.*

(b) For the RCL which is changing:

(1) For ~~a~~ decrease in RCL expected to affect the program for more than 90 days, the rate shall be the lesser of:

(1A) The existing rate, or

(2B) The standard rate for the new RCL.

(f2) For ~~an~~ increase in the RCL, the rate shall be the greater of:

(1A) The existing rate, or

(2B) The rate floor for the new RCL.

(c) For changes affecting more than one group home program, as described in Section .435(c), the rate shall be determined by the Department based on the RCL for the program based on the data in the program change application submitted in compliance with Sections 11-402.431 and .432.

(1) The rate shall be the rate floor for the RCL resulting from the program change.

(d) Any change in the type of placement, the rate shall be the existing rate.

.437 Providers who have made a significant financial commitment to expand their current program prior to January 1, 1990 shall submit verifying documentation to the Department by October 1, 1990 to receive their existing rate.

.44 Programs Which Fail to Maintain the RCL

(d) .441 Providers shall not be required to report a temporary decrease in the approved RCL which affects the program's RCL for 90 days or less, provided with programs which fail to maintain the projected RCL shall submit the information required by Section 11-402.432 unless:

(1a) The RCL is expected to return to the RCL approved by the Department for the current fiscal year by the end of 90 days, and

(2b) The average fiscal year RCL will not be affected by the temporary decrease.

.442 The Department shall verify the program has failed to maintain the RCL as defined in Section 11-400f.(1) and set a new rate based on the new information provided.

.443 The effective date of the new rate shall be the date at which the program failed to maintain the previously approved RCL.

.444 Programs for which the actual average RCL is lower than the RCL upon which the rate was established shall be subject to the provisions in Section 11-402.55, Corrective Action, and .6, Overpayments.

.445 Program Reinstatement

.4451 A program reinstatement is a process to re-establish a program that has been terminated as specified in Section 11-402.389. A program shall be reinstated when the Department determines that all appropriate application requirements specified in Section 11-402.3 have been met.

.4452 The effective date of the rate is the date of the Department's written notification of reinstatement to the provider.

.4453 The rate shall be set, based on the RCL for the fiscal year, at the lesser of:

- (a) The existing rate prior to termination, or
- (b) The new rate as determined by the Department.

.5 Program Audits

.51 The Department shall conduct full or partial program audits of any program, as often as necessary, to ensure compliance with all requirements within this section. The Department shall audit the documents submitted ~~for~~ with the ~~purpose of~~ rate application request and the actual program ~~for which the~~ projected in the rate application. Program audits shall focus on the hours and weightings of workers in each of the three program components. Audits shall be conducted ~~on~~ at the group home site, within the Foster Care Rates Bureau (FCRB) office or other sites as determined appropriate by the FCRB. The Department shall provide the group home program 30 calendar days written notice prior to conducting a program audit.

.511 The Department shall conduct a program audit earlier than the normal schedule at provider's request in order to reduce or minimize an overpayment.

.512 The purpose of program audits shall be to determine if the program's projected RCL was or was not maintained.

(a) Program audits for FY 1990-91 shall be performed in accordance with Section 11-402.93.

.542 Providers shall maintain program records for a minimum of five years ~~as required~~ and make them easily accessible to any Departmental staff conducting program audits. Program records to be maintained include, but are not limited to the following:

.5421 Personnel ~~files~~ records, which include, but are not limited to:

(a) Current licenses; diplomas; copies of official transcripts if major shown on diploma is other than those listed as an equivalent for the appropriate program component; or diploma is from a non-accredited school; dated applications for employment and/or resumes; time sheets; salary schedules showing hours and amount paid; employee benefits; contracts; ~~degrees/~~ training and development documents; job descriptions (including position title and classification, duties and responsibilities); and group home organization charts.

.5422 Case management ~~files~~ records, which include but are not limited to:

(a) Treatment plan; psychological evaluations/reports; medical evaluations/releases; education evaluations/information; correspondence; dictation and documentation of services provided; court orders; quarterly reports/program reports; information required by licensing regulations under Title 22; for visitation, documentation of mental health direct services provided, dated and signed by the mental health professional; documentation of all services which show the relationship to treatment plans; and all RCL significant information pertaining to a client shall be included in the client's record.

.5423 Training program records which document all the information in the training log such as:

- (a) The date(s) of training; hours of duration of each training session; certification of completion; name of trainer and certification; documentation showing provider paid any costs for training, including employee wages and benefits; and subject of the training.

.523 Conducting Program Audits

.5231 Program audits of on-going programs with no program changes during the audit period shall be conducted by reviewing the provider's report of the actual RCL and program information for the audit period ~~as follows~~.

- (a) The actual RCL for each month in the audit period shall be compared to the reported RCL for the same period.

1521(b) The Department shall:

- (1) Select and review ~~ed~~ for accuracy no fewer than two months of reported data for each fiscal year of the audit period ~~shall be reviewed~~.

- (2) Recompute the actual eligible hours, weightings, and program points as specified in Sections 11-402.221, .222 and .223 to determine reporting accuracy.

- (3) Recompute the RCL and compare it to the reported RCL for the audit period.

- (A) If the recomputed RCL is the same as the reported RCL, the reported data shall be considered accurate. See Section 11-402.534.

- (B) If the recomputed RCL is less than the reported RCL, the reported data for additional months of the audit period shall be reviewed for accuracy as specified in (2) and (3).

- (i) If after data from all months of the audit period has been reviewed and the recomputed RCL continues to be less than the reported RCL, the recomputed RCL shall be considered accurate and the program shall be assessed an overpayment. See Section 11-402.6.

1522 Using the reported and/or corrected data from the audit period, determine the actual RCL maintained in each of the audit months.

.532 Program audits of new programs and program changes shall be ~~conducted~~ started no later than the 12th month of operation.

1531 (a) The audit process in Section 11-402.523 shall be used except that:

(1) In the case of program changes and new programs by on-going providers, the months of each RCL shall be audited separately as a separate audit period.

(2) In the case of new programs by new providers, the total audit period shall be fewer than 12 months.

(A) Each of the first six months shall be subject to review and compared to the projected RCL for the same month.

(B) No less than two months from the first seven months of operation, including the present month of operation, shall be reviewed according to Section 11-402.53 and compared to the projected RCL.

153 Program audit protocols

.53133 Completion of audits

(a) A program audit shall be completed and an exit interview shall be conducted within 60 days of the start of the audit.

(a) The program audit verifies the projected average RCL was maintained during the audit period/ and is

5841 Program audit results findings include/ but are not limited to the following:

584 Program Audit Findings

(1) The notice shall contain specific information concerning the program audit findings; the specified time frames for providers to take corrective action; the procedures for county overpayment collection and the fair hearing process.

(c) Notification of audit findings shall be mailed to the provider and shall be mailed within 30 days of the provider's exit interview.

(b) A draft written summary of findings shall be provided at the exit interview. The draft shall be provided at the exit interview.

(a) The Department shall conduct an exit interview with the provider at the conclusion of the program audit and shall

58234 Exit Interview and Notification

(b) Program audits that remain incomplete at the end of 45 days because of the unavailability of data, records, or documents shall be completed using the information available to the Department.

(b) The program audit verifies the actual average RCL was lower than the projected RCL during the audit period and currently remains lower program failed to maintain during the audit period.

(3) The provider shall take corrective action to reach the originally projected RCL within 60 days of the exit interview.

(4) The provider shall remain at the lower RCL by submitting a complete program change application within 30 days of the exit interview. An overpayment shall be computed as specified in Section 11-402.61.

(c) The program audit verifies the actual average RCL is higher than the projected average RCL and remains higher during the audit period.

(1) The provider may continue his/her group home operation at the currently paid rate of the lower RCL, or

(2) The provider may submit a program change application for the higher RCL.

(1) Providers who are operating at a higher RCL than projected:

(A) Shall continue to receive the rate for the projected RCL or

(B) Shall be permitted to submit a program change application for the higher RCL. See Section 11-402.43.

#### .585 Corrective action

.5851 The Department shall allow the provider to bring a current the program into compliance with the projected RCL within 60 days of the close of the program audit notice of audit findings when the recomputed RCL as determined by a program audit of the same program, is less than the projected RCL. See Section .534(c).



(2a) After 60 days the Department shall move to implement an immediate reduce the RCL and rate reduced to minimize the any current overpayment except when the provider is taking corrective action as in 13) below.

11) The Department auditor shall inform the provider of the procedure for collection of overpayments for all appropriate pass months.

#### .576 Disagreements

.5761 A provider who disagrees with the findings of a program audit and requests a different rate, shall be permitted to file a protest with the Department within 60 days of the postmarked date of the notice of program audit results, as specified in Welfare and Institutions Code Section 11468.2(a).

(a) The provider's reduced RCL and rate set by the Department shall remain in effect during the protest process.

1582 Providers shall be assessed an overpayment for all appropriate months according to section 11468.2(a) except when:

(a) The provider is able to demonstrate he/she acted prudently on erroneous information provided by an employee, and

(b) The provider takes immediate appropriate action to correct the error or adjust the RCL.

#### .6 Overpayments

.61 The Department shall recover all overpayments.

.611 Overpayments (according to Section 11-402.6) shall not be assessed in the following circumstances:

(a) The provider is able to demonstrate he/she acted prudently on erroneous information provided by an employee, and within 60 days of the notice of audit results, takes appropriate action to;

(1) Correct the error, or

(2) Adjust the RCL.

(b) New providers shall not be assessed an overpayment for any of the first six months of operation when a program audit finds the projected RCL was reached by the seventh month and maintained through the twelfth month of the program.

.62 An overpayment situation shall be created when the actual average RCL falls below the projected average RCL for the same period. An overpayment shall be caused by, but is not limited to, the following:

.621 The provider does not meet the projected average RCL because of erroneous, incomplete or misleading information provided to the Department with the rate application, such as:

(a) False documentation for staff education, experience or on-going training.

(b) An inaccurate number of staff hours claimed for any of the three program components.

.622 A Department administrative error is made notifying a provider of their RCL.

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.623 Example: A provider submits an application indicating an RCL of five. The Department verifies the projected RCL five. A clerical error is made in the notification letter to the provider indicating the projected RCL is seven. In this situation, the provider is aware or should reasonably be aware that his/her program is only an RCL five. If the provider fails to notify the Department of the discrepancy, an overpayment shall be generated.

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.624 The provider's annual program application is submitted late and/or incomplete.

.625 The provider fails to maintain. See Section 11-400f.(1).

.63 Overpayments shall be ~~discovered~~ determined by:

.631 The ~~Provider~~ reporting information to the Department related to RCL changes, or

.632 The Department verifying an actual lower than projected RCL during the rate application process or a program audit.

.64 Overpayment Processing:

.641 The Department shall provide written notification to the provider and affected counties of an overpayment according to Section 11-402.5~~7~~34(c).

.642 The beginning date of an overpayment shall be the earlier of:

(a) July 1 of the affected fiscal year for an on-going program, or

(b) The date of first placement at the incorrect RCL for new programs, program changes, or program reinstatements.

.643 The amount of overpayment shall be computed by:

(a) Averaging the actual number of points per month for the total audit period.

(b) Subtracting the average in (a) from the lowest point level in the point range of the projected ~~average~~ RCL for the audit period to determine the number of points below the projected average RCL. The number of points below the projected average RCL shall be used to determine the overpayment factor as follows:

Number of Points below projected average RCL	Overpayment Factor
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(1) 1 - 5	= \$100
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(2) 6 - 10	= \$200
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(3) 11 - 30	= 100 percent of the difference between the rates in the <del>two</del> <u>projected and actual</u> RCLs.
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- (c) Multiplying the average group home occupancy of children who receive AFDC-FC during the audit period by the number of months in the audit period times the overpayment factor in (b).
- (d) The result is the total overpayment owed.
- (e) If the actual average RCL is more than one RCL below the projected average RCL, the overpayment is computed by adding the total rates for the entire RCL(s) to the overpayment factor for the partial RCL.
- (f) During the period a program received a frozen rate, any overpayments shall be assessed as specified in Section 11-402.943.

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.644 Example: A provider has a six-bed facility with average of five actual occupancy. Projected RCL for FY(s) 90-91 and 91-92 is RCL 6, point range 180-209. The following are the actual monthly points generated by the provider:

Months:	J	F	M	A	M	J	J	A	S	O	N	D
	190	170	170	190	170	120	120	190	180	180	180	180

- (a)  $2040 \text{ pts./12 mos.} = 170 \text{ total monthly average points for the audit year.}$  The overpayment is:  $10 \text{ pts.} = \$200 \times 5 \text{ children} \times 12 \text{ mos.} = \$12,000.$

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.65 A program which experiences a second overpayment during the program's lifetime shall be assessed the full rate difference between the two RCLs X average actual occupancy X the number of months in the audit period.

.7 Fiscal Audits

.71 ~~The department shall perform or have performed~~ Group home fiscal audits shall be performed by the Department, its agents, or by an audit agency of the federal government.

- .711 The scope of the audits shall include, but not be limited to, compliance with all applicable federal and state laws, regulations, and instructions based on those laws and regulations in effect during the audit period.
- .72 Group home programs shall maintain all cost data ~~consisting of~~ related to the following ~~information~~ categories for a period of not less than five years.
- .721 CCS.
  - .722 Social Work Activities.
  - .723 Food.
  - .724 Shelter.
  - .725 Buildings and equipment.
  - .726 Utilities.
  - .727 Vehicles and travel.
  - .728 Child related.
  - .729 Administration.
- .73 Group Home Payroll and Fringe Benefit Report consists of the following:
- .731 Payroll.
  - .732 FICA.
  - .733 Unemployment coverage.
  - .734 Medical insurance expense.
  - .735 Retirement.
  - .736 Other costs.
  - .737 Contractor costs.
- .74 A provider shall be responsible for making available all requested records and documents as referenced in Sections 11-402.72 and .73 during fiscal audits.
- .741 A provider's refusal to cooperate by not providing the requested records and documents shall result in rate termination as specified in Section 11-402.389.

.8 Cost Reporting

.81 Providers shall report the actual allowable and reasonable costs for each program to the Department on Form SR 3 (Rev. 3/90), SR 4 (Rev. 1/90) and SR 5 (Rev. 1/90) for the 12 months of the immediately preceding calendar year beginning January 1 and ending December 31 except:

.811 If the provider has established a new program within the previous calendar year and has less than 12 months of data, the provider shall submit cost data for the first month the rate is effective to the end of the calendar year.

.812 The FY 1990-91 implementation year requires data reporting as specified in Section 11-402.9.

.82 Allowable Costs

Reported costs shall be actual allowable and reasonable as defined in federal statutes and regulations including 45 CFR, Part 74 and 45 CFR, Part 1356 in addition to other costs listed in .822 and .823.

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.821 Actual allowable and reasonable costs as defined in 45 CFR, parts 74 and 1356 state in part:

"(a) The reasonable cost of, and the cost of providing the following:

- (1) Food.
- (2) Clothing.
- (3) Shelter.
- (4) Daily supervision.
- (5) School supplies.
- (6) Personal incidentals.
- (7) Travel to the child's home for visitation.
- (8) Liability insurance which covers the child.

- (b) The reasonable cost of administration and operation necessary to provide the items described in (a) above."

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- .822 The reasonable social work activities offered by providers.
- .823 Reasonable, actual principal and interest on original acquisition mortgages.
  - (a) If the original acquisition mortgages are refinanced, the lesser of the following shall be allowed:
    - (1) The amount of interest associated with the original acquisition loan amounts, or
    - (2) The amount of interest associated with the remaining principals.
- .824 The reasonable, actual lease or rental costs for leasebacks of real property.
- .825 The reasonable cost incurred for vehicle and equipment leasebacks as if owned by the provider as described in Section 11-402.828(b).
- .826 Costs that are not allowable shall include, but not be limited to, the following:
  - (a) Overhead and supervision costs associated with unallowable activities.
  - (b) Litigation expenses associated with suits filed against an agency of the county, state, or federal governments.
  - (c) Retainer fees for consultants, physicians, lawyers, and accountants.
  - (d) Psychiatric and psychological consultations associated with unallowable Title IV-E activities.
  - (e) The cost of medical diagnosis, hospital expenses, and physician services.
  - (f) The cost of formal educational activities.

- (g) Vocational training which substitutes for formal education.
- (h) Recreation costs except where it substitutes for otherwise necessary daily supervision.
- (i) The cost of more than one appraisal per year per facility; the cost of an appraisal performed by an appraiser deemed by the Department not to be a qualified, professional appraiser meeting the standard specified in Section 11-402.828(a)(1)(A)(ii); and the cost of appraisals performed under a less-than-arms-length agreement or by a person or persons employed by, under contract with for purposes other than performing appraisals, or having a material interest in any group home which receives AFDC-FC funds.
- (j) Any cost for a child living with his/her minor parent.

.827 Cost Components. The nine cost group definitions are as follows:

- (a) CCS. All costs related to the hours of CCS reported in the Program Classification Report [SR 2 (Rev. 3/90)] are to be reported. These include functions of day-to-day care of the child that would be considered ordinary parental duties and supervision of the caregiver. Do not include social work activities. Include payroll, payroll taxes and employee benefits. Include contract costs if a child care worker is under contract.
- (b) Social Work Activity. All costs related to the direct social work services described in Sections 11-402.20s(1) and 11-402.212, including but not limited to, payroll, payroll taxes, employee benefits, and contract costs, if a social worker is under contract.



- (c) Food. All costs related to food planning, preparation and service, kitchen supplies, and food stuffs for children in placement including, but not limited to, food worker payroll, payroll taxes, employee benefits, food expense and kitchen supplies.
- (d) Shelter. Shelter costs include, but are not limited to, the original mortgage principal and interest for owned property; use allowance on buildings for which no original mortgage principal or interest is claimed for owned property; actual lease or rental costs (regardless of from whom the property is leased or rented); use allowance for capital improvements; taxes; building insurance; and appraisals for owned, leased, or rented property.
- (e) Buildings and Equipment. Building and equipment cost include, but are not limited to, building and equipment payroll; payroll taxes and employee benefits; building maintenance; contracts; supplies; equipment leases; equipment depreciation expense; expendable equipment; and miscellaneous building and equipment expenses.
- (f) Utilities. Utilities costs include, but are not limited to, the cost of electricity, natural gas, water, garbage, and sewer.
- (g) Vehicles & Travel. Vehicle and travel costs include vehicle leases, depreciation, operating costs and transportation of the child.
- (h) Child-Related. Child-related ~~travel~~ costs include, but are not limited to, clothing, personal and incidental expenses for the child, school supplies, planned activities, and other child-related costs. County paid clothing allowances shall offset these costs by the amount actually paid.

- (i) Administration. The costs necessary for the on-going administration and support functions of the organization include ~~the~~, but are not limited to, administration payroll; contracts; telephone and telegraph; postage and freight; office supplies; administrative travel; conferences; meetings; in-service training; memberships; subscriptions; dues; printing and publications; bonding; general insurance; organizational costs; advertising; recruiting; and miscellaneous.

.828 Reasonableness tests shall include, but not be limited to, comparable costs of similar programs.

- (a) Shelter costs shall be considered reasonable in relation to the fair market value limit as described below:

- (1) . Reimbursement of shelter costs shall not exceed 12 percent of the fair market value of owned, leased, and rented buildings, exclusive of idle capacity and capacity used for nongroup home programs and activities.

- (A) Fair market value shall be determined by either of the following methods as chosen by the provider:

- (i) The market value shown on the last tax bill for the cost reporting period, or
- (ii) The market value determined by an independent appraisal. The appraisal must be performed by a qualified, professional appraiser who, at a minimum, meets standards for Class III appraisers as specified in Title 10, California Administrative Code,

Subchapter 2, and shall not be deemed independent if performed under a less-than-arms-length agreement or by a person or persons employed by, under contract with for purposes other than performing appraisals, or having a material interest in any group home which received AFDC-FC funds. The Department shall have the authority to determine that any appraisal does not meet the standard specified herein.

- (B) Shelter costs for the purpose of the limit specified in Section 11-402.826(a) shall include, but not be limited to, the following:
- (i) Original mortgage principal and interest, for owned property;
  - (ii) Use allowance on buildings for which no original mortgage principal or interest is claimed, for owned property;
  - (iii) Actual lease or rental costs, regardless of the party from whom the property is leased or rented, for leased or rented property;
  - (iv) Use allowance for capital improvements, for both owned and leased or rented property;

- (v) Taxes, for both owned and leased or rented property; and
  - (vi) Insurance, for both owned and leased or rented property; and
  - (vii) The costs of independent appraisals, for both owned and leased or rented property.
- (b) Vehicle costs: Annual depreciation or lease cost for a passenger automobile cannot exceed \$6,242 (one-third of the standard); accumulated depreciation or total lease cost cannot exceed \$18,725. This standard only applies to passenger vehicles.
- (c) Reasonableness standards for salaries are derived from the Los Angeles Area United Way Salary and Classification Plan for FY 1987-88 plus California Necessities' Index increases for 1988-89 of 4.74 percent and 1989-90 of 4.61 percent.

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##### (1) Executive Director

<u>Level</u>	<u>Annual Budget</u>	<u>Salary Limit</u>
I	\$ 105,000 or less	\$ 41,391
II	\$ 105,000 to \$ 263,000	\$ 48,228
III	\$ 263,000 to \$ 524,000	\$ 56,169
IV	\$ 524,000 to \$1,049,000	\$ 65,163
V	\$1,049,000 to \$1,577,000	\$ 75,523
VI	\$1,577,000 to \$2,066,000	\$ 87,607
VII	\$2,066,000 or more	\$102,859

##### (2) Assistant Executive Director

- (A) One salary level below that of Executive Director, but not lower than Level I shall correlate to the limit for this job title. The assistant executive director is any high level employee of the organization whose duty

statement specifies that the employee acts on behalf of the executive director in his/her absence. It is possible in some organizations to have more than one employee considered to be an assistant executive director. However, the qualifications and duties of the employee(s) designated to act as executive director in his/her absence must be consistent with his responsibility.

(3) All Others

- (A) Below the assistant executive director level, two salary ceilings will apply. For supervisory personnel, the maximum salary is \$45,664, but not more than the salary of the assistant executive director or the executive director of the organization. A supervisory employee must supervise or direct the activities of the full-time equivalent of at least three other employees. The maximum salary for non-supervisory employees is ~~\$29,856~~ 32,713.

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.83 Charitable Donations and Governmental Payments

- .831 Unrestricted charitable donations from nongovernmental sources shall not be used to offset reported costs.
- .832 Payments for allowable costs shall offset reported costs.
- .833 Costs for staff whose hours are not counted for program classification purposes, because they are reimbursed from government sources other than AFDC-FC, shall not be reported as allowable costs.

.834 Donor restricted donations from private sources specified to fund an allowable cost shall offset allowable costs.

.835 Actual payments for clothing allowances shall offset allowable costs for clothing.

.84 Accounting Requirements

.841 An actual cost basis of accounting shall be used in reporting allowable costs.

(a) Actual costs must have been paid within the report period as specified in Section 11-402.81.

(b) Costs not paid within the report period shall be expensed in the subsequent cost period in which they are paid.

.842 Accounting records shall be maintained in accordance with generally accepted accounting principles.

.843 All accounting records shall be retained for a minimum period of five years from the date of the final claim for that annual period or until all audit issues have been resolved.

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(a) Examples include, but are not limited to, accounting records and journals, ledgers and supporting documentation, invoices, receipts, checks and/or vouchers.

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.844 Depreciation/Use Allowance

(a) The straight-line method of calculating depreciation shall be used for equipment with a useful life of more than two years valued at \$500 or more based on the initial acquisition cost.

(1) Useful life shall be:

(A) A minimum of three years for automobiles.

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- (i) Examples include passenger vehicles and general purpose trucks with unloaded weight less than 13,000 lbs.

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- (B) A minimum of five years for all other depreciable equipment.

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- (i) Examples include office equipment, computer equipment, buses, commercial vans, and heavy general purpose trucks with unloaded weight of 13,000 lbs. or more.

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- (b) Providers shall be permitted to convert their existing depreciation methods to schedules which are consistent with the method specified in Section 11-402.844(a).
  - (1) The total depreciation charges throughout the useful life of the equipment shall not exceed the original cost of acquisition.
- (c) Use allowance shall be applied to the acquisition cost of building, for which no original mortgage principal and interest is paid, and to improvements.
  - (1) Use allowance shall be computed at an annual rate of two percent.
- (d) Charges for use allowances or depreciation shall be supported by adequate property records, including acquisition date and cost, the depreciation period and the amount charged each cost period.

(e) Physical inventories shall be taken and documented at least once every two years for depreciable equipment.

.845 Gains or losses on the sale, retirement or other disposition of vehicles and other equipment shall be included as credits or charges in the year in which they occur.

.846 Cost Allocation Process

(a) Allowable costs shall be allocated to each program.

(1) Allocation bases shall include, but not be limited to, the following:

(A) Direct child care hours.

(B) Number of children in each program.

(C) Square footage.

.85 Good Cause and Penalty for Late Reporting or Nonreporting

.851 Good cause and penalties for late reporting or nonreporting shall be the same as if the rate application is late, incomplete or not submitted as specified in Section 11-402.37.

.9 Phase-in Following Implementation

The standardized schedule of rates as specified in Section 11-402.15 shall be phased in over two state fiscal years (FY) starting with July 1, 1990 and ending June 30, 1992.

.91 For implementation purposes, a rate floor shall be established.

.911 The rate floor for FY 1990/91 shall be 85 percent of the standard rate for each RCL.

.912 The rate floor for FY 1991/92 shall be 92.5 percent of the standard rate for each RCL.

.913 The rate for the new group home program of a new or existing provider shall be established at the rate floor for the program's projected RCL.



.92 Rates effective July 1, 1990 shall be determined as follows:

.921 For programs operating on June 30, 1990 with an actual cost-based rate:

- (a) Providers shall submit a complete rate application, reporting level of care and services provided between July 1 and December 31, 1989 or between July 1, 1989 and March 31, 1990. The resulting RCL shall be the a program's RCL based on the retrospective level of care.
- (b) Providers that implemented a program change during the above stated reporting period that impacts a minimum of four reporting months shall be permitted to report only the months reflective of the program change.
- (c) Providers shall also project, as part of the complete rate application, the RCL that each program will provide during the 1990-91 fiscal year.
  - (1) Providers shall not project an RCL for a program that is higher than the retrospective RCL reported for that program as specified in (a) or (b) above.
  - (2) Providers shall be permitted to project for a program an RCL that is lower than the retrospective RCL reported for existing programs as specified in (a) or (b) above.
- (d) The Department shall review the rate application, determine the RCL level, and authorize the rate when the conditions specified in Section 11-402.2 have been met.
  - (1) For programs that have a projected RCL at the same level as the RCL reported as specified in (a) or (b) above, the rate shall be the higher of:
    - (A) The 1989/90 rate plus CNI up to the standard rate, or

- (B) The rate floor, or
  - (C) The 1989/90 rate if above the standard rate.
- (2) For programs that have a projected RCL that is lower than the RCL reported as specified in (a) and (b) above, the rate shall be the lesser of:
- (A) The standard rate for the projected RCL, or
  - (B) The greater of:
    - (i) The 1989/90 rate plus CNI, or
    - (ii) The rate floor for the projected RCL.
- (e) A provider shall show evidence of their intention to complete the training requirements in fiscal year on-going 1990/91 for a program if the program chooses to claim the weighting for on-going training by submitting both of the following:
- (1) A copy of a training log for training provided between July 1, 1989 and December 31, 1989.
    - (A) The required training log need not include the names of the trainees.
  - (2) A proposed training plan for training to be provided between January 1, 1990 and June 30, 1990.
    - (A) The proposed training plan in (2) above is not required to be preapproved.
- (f) Programs continuing to receive the actual 1989/90 cost-based rate shall be frozen at that rate until the standard rate for the RCL plus COLAs is equal to or greater than the frozen 1989/90 cost-based rate.

(g) The effective date for timely applications shall be July 1, 1990.

(h) Good cause and penalties shall be applied as specified in Section 11-402.37 and .38.

.922 Programs which do not have an actual cost-based rate in effect June 30, 1990 shall have their 1990/91 fiscal year rate established as follows:

(a) The provider must submit a complete rate application projecting level of care and services for the 1990/91 fiscal year as specified in Sections 11-402.411 and .411(a).

(b) The Department shall determine the RCL and authorize the rate when all required application conditions are met. The rate shall be the lesser of:

(1) The existing rate plus applicable CNI up to the standard rate but no less than the rate floor, or

(2) The standard rate.

(c) The effective date for timely applications shall be July 1, 1990.

(d) Good cause and penalties will apply as set forth in Section 11-402.37 and .38.

.923 The Department shall not increase the RCL level for any group home program during fiscal year 1990/91. A provider wishing to increase a program's RCL must submit a complete application according to Section 11-402.3 in the annual 1991/92 application process.

.93 Audits of group home programs for fiscal year 1990/91 for which an RCL is determined by retrospective program classification data shall be based on each of the months reported.

.931 For providers in fiscal year 1990/91, submitting on retrospective basis, the reporting period is:

(a) Either July 1, 1989 through December 31, 1989, or July 1, 1989 through March 31, 1990.

(b) The Department shall review the SR 2 (Rev. 3/90) showing retrospective program classification data to:

- (1) Verify if projected points were maintained,
- (2) Determine the RCL for each month,
- (3) Average the audited points, and
- (4) Determine if audited points affect RCL and/or rate.

.94 Overpayments During the Implementation Period

.941 Providers that fail to maintain the RCL upon which the 1990/91 fiscal year rate was established shall be assessed an overpayment as specified in Section 11-402.6

.942 Providers who are found to have operated at a lower RCL than projected but who received a frozen rate during the implementation period which was lower than the standard for their actual RCL shall be assessed for possible determination of an overpayment. The Department shall:

- (a) Recompute the RCL based upon the actual conditions in effect at the time in question.
- (b) Establish the new rate for the appropriate months based on the new RCL.
- (c) Compare the actual rate paid during the affected time period to the recomputed rate to determine if an overpayment exists.

.943 The Department shall compute an overpayment for a program which, was an on-going program with a cost-based rate before July 1, 1990; had a projected RCL which resulted in a rate higher than the cost-based rate plus CNI effective July 1, 1990; had a recomputed RCL lower than the projected RCL; and the level of care and services prior to and after July 1, 1990 remained the same, as follows:

(a) Subtract the cost-based rate plus CNI from the actual rate paid during the affected time period.

(b) Multiply the average group home occupancy of children who receive AFDC-FC during the audit period by the number of months in the audit period times the result in (a).

.944 During implementation the overpayment amount shall not exceed the difference between the rate actually paid and the rate that would have been paid if the provider had currently reported his/her RCL..

Authority Cited: Sections 10553, 10554, 11462(j), 11466.1, and 11466.2, Welfare and Institutions Code and Chapter 1294, Statutes of 1989, Section 23.

Reference: Sections 10852, 11460, 11462, 11466.1, 11466.2, 11466.3, 11466.4, 11467, and 18350, Welfare and Institutions Code and The Classification of Group Home Programs Under the Standardized Schedule of Rate System Report, August 30, 1989.

Amend Section 11-406 to read:

11-406 RESPONSIBILITIES OF COUNTY PLACEMENT AGENCIES 11-406

- .1 The county welfare and probation departments' responsibilities shall include, but not be limited to, the following:
- .11 Paying the rate(s) determined by the Department on behalf of AFDC-FC eligible children placed with foster parents and providers. (See Sections 11-401, 11-402 and 11-403.)
  - .12 Recommending the establishment of a new program by a new or existing provider, or a program change which is more than one RCL greater than the original RCL determination. (See Sections 11-402.41, .42, and .43) The recommendation is to include:
    - .121 Program is needed in that county.
    - .122 Provider is capable of effectively and efficiently operating the program.
    - .123 Provider is willing and able to accept AFDC-FC children for placement who are determined by the placing agency to need the level of care and services that will be provided by the program.
  - .13 Confirming the existence and legitimacy of more than one program as appropriate. (See Section 11-402.1)
  - .14 Reviewing children placed by the placement agency in the program which is determined to have points at RCL 13 or 14 and verifying to the Department that all the children have special treatment needs. (See Section 11-402.18)
  - .15 Upon request by the Department, counties shall report the county's understanding of the services offered by the program and the population served.
  - .16 Cooperating with other placement agencies to form a regional consortium to review group home program requests for county recommendation.
  - .17 Participating, if requested by the Department, in the rate review process. (See Section 11-402.56)

- .18 Submitting to the Department rate payment information for each fiscal year beginning with fiscal year 1983/84, for family homes, homefinding agencies, and group homes.
- .19 Providing the Department with reasonable and applicable information and statistics as required.

Authority Cited: Section 10553 and 10554, Welfare and Institutions Code and Chapter 1294, Statutes of 1989, Section 23.

Reference: Section 11462(g)(2) and 11462(i)(2), Welfare and Institutions Code.

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

**FILED**  
In the office of the Secretary of State  
of the State of California

NOV 28 1990  
At 358 o'clock P.M.  
MARCH FONG EU, Secretary of State  
By *Michele L. Williams*  
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the City of Sacramento, State of California.

Submitting Agency: Social Services  
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OAL File No: 90-1029-02  
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*John D. Smith*  
\_\_\_\_\_  
JOHN D. SMITH  
Director

11/28/90  
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# EMERGENCY NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 7-90)

(See instructions on  
reverse)

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 90-1119-03E	PREVIOUS REGULATORY ACTION NUMBER
For use by Office of Administrative Law (OAL) only				
<div>1990 NOV 19 PM 3 58</div> <div>OFFICE OF ADMINISTRATIVE LAW ENDORSED APPROVED FOR FILING NOV 29 1990 Office of Administrative Law</div>				
NOTICE			REGULATIONS	
AGENCY Department of Social Services			AGENCY FILE NUMBER (if any) RDB #1090-45	

**FILED**  
In the office of the Secretary of State  
of the State of California

NOV 29 1990

At 4:31 o'clock P.M.  
MARCH FONG EU, Secretary of State  
By *Michael K. Williams*  
Deputy Secretary of State**A. PUBLICATION OF NOTICE** (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY		ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER <i>None</i>	PUBLICATION DATE

**B. SUBMISSION OF REGULATIONS** (Complete when submitting regulations)

## 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

SECTIONS AFFECTED	ADOPT
	40-129
TITLE(S) MPP	AMEND
	41-440, 44-103, 44-211, 44-317, 45-302
	REPEAL
	40-129

## 2. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code, § 11346)	<input type="checkbox"/> Resubmittal	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)	<input checked="" type="checkbox"/> Emergency (Gov. Code, § 11346.1(b))
<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.			

☐ Print Only ☐ Other (specify)

## 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

## 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

<input type="checkbox"/> Effective 30th day after filing with Secretary of State	<input type="checkbox"/> Effective on filing with Secretary of State	<input checked="" type="checkbox"/> Effective other (Specify) December 1, 1990
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## 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input checked="" type="checkbox"/> Department of Finance (Form STD. 399)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
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☐ Other (Specify)

## 6. CONTACT PERSON

Rosalie Clark, Chief, Regulations Development Bureau

## TELEPHONE NUMBER

445-0313

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

*Linda S. McMahon*

DATE

11/16/90

TYPED NAME AND TITLE OF SIGNATORY

Linda S. McMahon, Director

**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

STD. 400 (REV. 7-90) ( REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Repeal existing MPP 40-129:

~~40-129 IMMEDIATE NEED~~

40-129

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~~.1 The intention of these provisions is to ensure that an applicant in immediate need receives either:~~

- ~~(a) An aid payment if he/she is eligible for AFDC or~~
- ~~(b) An immediate need payment if eligibility for AFDC is apparent but not yet verified. An alien applicant who does not provide verification of his/her eligible alien status, or a woman with no eligible children who does not provide medical verification of pregnancy is not apparently eligible for the purposes of this section. The immediate need determination and payment, if appropriate, should be completed on the day the recipient indicates immediate need. In no event shall this be completed later than the following working day.~~

~~.2 Definition of Immediate Need~~

~~"Immediate need" exists when there is (1) an emergency situation and (2) the applicant's liquid resources are less than \$100 and (3) the resources cannot meet the costs of the emergency situation. Examples of an emergency situation include, but are not limited to: insufficient food for the family which cannot be supplemented by food stamps issued by the working day following the immediate need request, lack of housing, notice of eviction, notice of termination of or loss of utility service.~~

~~.21 For purposes of this section "liquid resources" means resources which are immediately available and reasonably convertible to cash in time to meet the emergency situation. These may include cash, negotiable securities, and similar resources but do not include cash surrender value of insurance, trust deeds, household items and furnishings, personal effects, motor vehicles, or real property.~~

~~.22 Individuals presently receiving cash aid payments under any of the categorical aids are not considered to be in immediate need.~~

~~.23 Children placed in foster care are not considered to be in immediate need as defined in Section 40-129.2 above.~~

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3 The county shall always be alert to situations of immediate need at the time of application or at any time during the application process and shall take the action necessary to assist the applicant in applying for Immediate Need. When an applicant indicates verbally or in writing that he/she is in immediate need, the county shall review the circumstances immediately.

.31 If the county determines immediate need does not exist, the normal procedure for determination of eligibility continues (see Section 40-115.22, Exploration of Eligibility). The county, no later than the date the denial action is taken, shall notify the applicant on an appropriate Notice of Action form that the request for immediate need is denied.

.32 If the county determines immediate need exists, the applicant shall complete the Form CA 2 immediately.

.4 The county shall review the Form CA 2:

.41 If eligibility for AFDC does not exist, the application is denied (see Section 40-115.232).

.42 If eligibility for AFDC is determined, the county shall issue the aid payment for which the applicant is eligible. This payment shall be made no later than the following working day, or,

.43 If the county cannot verify eligibility for AFDC the county shall determine if the applicant is eligible for an immediate need payment.

.431 An applicant is eligible for an immediate need payment if (a) the applicant is apparently eligible for AFDC and (b) the applicant complied with the procedural requirements provided that it was reasonable for the county to expect the applicant to do so within the time frame prescribed in .433 below. Procedural requirements include, but are not limited to, registering for work, furnishing a social security number, or cooperating in securing such number, accepting unconditionally available income, and agreeing to cooperate with the District Attorney in establishing paternity.

.432 The amount of the payment shall be the prorata grant for the month computed from the date of the immediate need payment is authorized, but not more than \$100.

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.433 The county shall issue the immediate need payment no later than the working day following the date the immediate need was requested.

.434 If an immediate need payment is made for one month, and eligibility for an immediate need payment exists in the following month, a second immediate need payment shall be made in the following month provided the amount of the combined payments does not exceed \$100.

.435 The county shall notify the applicant on an appropriate Notice of Action form when the request for immediate need is approved.

.436 When an immediate need payment is made, the county shall verify the applicant's eligibility or ineligibility within 15 working days of the date in which the county determined immediate need existed. There is no state financial participation in the immediate need payment(s) if eligibility or ineligibility is verified after 15 working days. To the extent that such verification depends upon documentation supplied by a third party (e.g., INS, SSA), initiation of such verification within the 15-day period is sufficient to ensure state financial participation in the immediate need payment(s) as long as all other eligibility verification is completed within the 15-day period.

.437 When verification of eligibility is completed, the county shall compute the aid payment from the beginning date of aid. (See Section 44-317.1, Beginning Date of Aid.) The amount of aid granted as an immediate need payment shall be offset against this aid payment and the county shall issue the remainder, if any.

If a second immediate need payment is made in the following month, it is offset against the aid payment for that month.

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Authority cited: Sections 10553, 10554, and 11209, Welfare and Institutions Code.

Reference: SB 991, Chapter 1285, Statutes of 1989.

Adopt new MPP 40-129 to read:

40-129 IMMEDIATE NEED

40-129

(a) Definitions

- (1) "Apparent Eligibility" means that the information provided on the Statement of Facts and information otherwise available to the county indicates that the applicant would be eligible for aid if the information on the Statement of Facts were verified.
- (2) "Applicant" means the person or family making, or on whose behalf is made, a request for AFDC by filing an application.
- (3) An "Emergency Situation" means one or more of the following exist:
  - (A) Lack of Housing - The applicant is homeless as defined in MPP 44-211.511.
  - (B) Pending Eviction - The applicant has received any type of eviction notice, including a three-day notice to pay or quit, evicting the family from its current residence.
  - (C) Lack of Food - The applicant does not have enough food to sustain the family for a period of three calendar days.
  - (D) Utility Shutoff Notice - The applicant has received a notice of termination of utility service or such service has been terminated.
  - (E) Transportation - The applicant is unable to meet essential transportation needs such as those relating to food, medical care, or job opportunity.
  - (F) Clothing - The applicant lacks essential clothing such as diapers or clothing needed for inclement weather.
  - (G) Other - The applicant has other emergencies of similar importance to the family's immediate health and safety.
- (4) "Home" means any location where a family resides.



(5) "Liquid Resources" means exempt and nonexempt items of value belonging to persons who would be included in the assistance unit which are immediately available and reasonably convertible to cash in time to meet the emergency situation.

(A) Liquid resources shall include but are not limited to cash, negotiable securities, and similar resources.

(B) Liquid resources do not include the cash surrender value of insurance policies, trust deeds, household items and furnishings, personal effects, motor vehicles, or real property.

(b) Eligibility for an Immediate Need Payment .

(1) Eligibility for an Immediate Need payment exists when the applicant meets all of the following conditions:

(A) Is apparently eligible for AFDC.

1. An alien applicant who does not provide verification of his/her eligible alien status is not apparently eligible.

2. A woman with no eligible children who does not provide medical verification of pregnancy as specified in MPP 44-205.642 is not apparently eligible.

(B) Has an emergency situation, without regard to whether it could have been anticipated, which cannot be addressed by the issuance of food stamps or homeless assistance or by referral to a community resource as specified in MPP 40-129(f).

(C) Has resources that do not exceed the resource limitation as specified in MPP 40-129(b)(2).

(D) Has complied with the following technical conditions for AFDC:

1. Social security enumeration, application for unconditionally available income (including UIB), work registration of the principal earner who is exempt from GAIN due to remoteness and cooperation with the District Attorney in accordance with MPP 43-201.1.

2. AFDC and Immediate Need case processing shall continue pending the applicant's verification of his/her completion of any technical condition of eligibility required.

(2) Resource Limitation

- (A) When the emergency situation involves transportation, liquid resources must be less than the cost of the emergency.
- (B) When the emergency situation is a pending eviction, liquid resources together with income must be less than the rent owing.
- (C) For all other emergency situations, liquid resources must be less than \$100.

(3) If eligible, the Immediate Need payment is:

- (A) The amount of the grant to which the applicant family would be entitled for the month of application computed in accordance with MPP 44-315.5 or \$200, whichever is less.

(4) The family shall be eligible for a second Immediate Need payment when:

- (A) A second request is made; and
- (B) The applicant remains apparently eligible; and
- (C) The AFDC check has not yet been issued; and
- (D) The family emergency continues or a new emergency has arisen; and
- (E) The Immediate Need payment issued in the previous month was approved for an amount less than \$200.

(5) In no event shall the combined amount of the Immediate Need payments exceed \$200.

(c) Immediate Need Payment Requests

(1) A family may request an Immediate Need payment any time during the application process.

- (A) The application process begins the date the county receives a completed application and continues until the AFDC application is approved and aid is issued or until the application is denied or withdrawn.



(2) At the time of application, every applicant shall be given the opportunity to request an Immediate Need payment by completing the Immediate Need section of the application.

(A) The county shall encourage applicants who indicate that they are in an emergency situation to complete the Immediate Need section of the application.

(B) If an applicant indicates verbally or in writing that he/she has an emergency situation, after the application has been submitted, the county shall provide the applicant with the Request for Immediate Need Payment (CA 4, 9/90).

(C) The Request for Immediate Need Payment (CA 4, 9/90) shall only be required for applicants who request an Immediate Need payment after the initial application.

(3) The county shall not complete the Immediate Need section of the application or the Request for Immediate Need Payment (CA 4, 9/90), except at the applicant's specific request.

(4) All Immediate Need payment requests received during regular business hours shall be accepted on that date.

(A) In no event shall any person wishing to file a request for an Immediate Need payment be denied the right to do so.

(B) The county shall not ask an applicant to withdraw an Immediate Need payment request.

(5) The applicant shall be given a copy of the application or the Request for Immediate Need Payment (CA 4, 9/90) when it is received by the county indicating the date of receipt.

(d) The Immediate Need Interview

(1) If the applicant indicates on the initial application or the Request for Immediate Need Payment (CA 4, 9/90) that the family has an emergency situation as defined in MPP 40-129(a)(3), the county shall conduct an Immediate Need interview no later than the next working day following the date the Immediate Need request is received.

HANDBOOK BEGINS HERE

- (A) When feasible, the county should conduct the interview the same day the Immediate Need payment is requested, but no later than the next working day.

HANDBOOK ENDS HERE

- (B) The face-to-face interview shall be conducted in accordance with MPP 40-131.

- (C) During the Immediate Need interview, the county shall review:

1. The completed Statement of Facts; and
2. The application or, if applicable, the completed Request for Immediate Need Payment (CA 4, 9/90).

- (D) To the extent that it is reasonable for the county to expect the applicant to do so within the Immediate Need time frame, the applicant shall provide all documentation necessary to verify the family's eligibility for AFDC.

1. The county shall not deny an Immediate Need payment because the applicant failed to provide verification/documentation of eligibility for AFDC except as required under MPP 40-129(b)(1)(A) or when such verification is in the applicant's possession.

(e) Action On The Immediate Need Payment Request

- (1) A determination of eligibility for an Immediate Need payment shall be made no later than the next working day following receipt of the request.

- (2) When eligibility to an Immediate Need payment exists:

- (A) And eligibility for AFDC is verified within the Immediate Need time frame specified in MPP 40-129(e)(1), the county shall issue the regular aid payment to which the applicant is eligible in lieu of the Immediate Need payment.

1. The aid payment shall be issued in accordance with MPP 40-129(i).

(B) And eligibility for AFDC is not verified within the Immediate Need time frame, the county shall issue the Immediate Need payment in accordance with MPP 40-129(i) unless the emergency situation is pending eviction and the applicant has requested an expedited determination of eligibility in accordance with MPP 40-129(g).

(C) The county shall notify the applicant in writing in accordance with MPP 20-001.1.

(f) Referral to Community Resources

(1) The county shall have the option to refer the applicant to another public program or private resource to meet an emergency situation other than the need for shelter or food and the request for an Immediate Need payment may be denied, when all of the following conditions are met:

(A) During the application period not more than one referral is made and the referral, when made, is to meet no more than one need.

(B) The county has verified in advance that the specific need will be fully met by the public program or private resource by the end of the working day following the request for an Immediate Need payment. The case record shall be documented to show that the county has verified in advance that such need will be met.

(C) The family has the mental and physical capabilities to travel to the public program or private resource. Counties will complete the referral with due regard to the situation of the family as a whole.

(2) The county shall not refer the applicant to the public program or private resource when travel will create another emergency situation.

(3) When a referral to another public program or private resource is made, the county shall provide the applicant the following information in writing:

(A) The name, contact person, address and phone number of the public program or private resource, and

(B) The applicant's specific need that will be met by the referral to the public program or private resource, and

- (C) If the other public program or private resource does not meet the applicant's need and the applicant returns within the Immediate Need time frame and remains eligible for an Immediate Need payment, the payment will be issued no later than the next working day following the date the county received the Immediate Need request.
- (4) When the other public program or private resource does not meet the applicant's need and the applicant returns within the Immediate Need time frame, the county shall provide the applicant with an Immediate Need payment, providing the applicant remains eligible.
- (5) When the other public program or private resource does not meet the applicant's need and the applicant returns after the Immediate Need time frame, the county shall provide the applicant with a new Request for Immediate Need Payment (CA 4, 9/90).
- (g) Expedited Determination of Eligibility
- (1) If the emergency situation is an eviction, and the applicant is found to be apparently eligible, the applicant shall be permitted to choose in writing either the Immediate Need payment or an expedited determination of AFDC cash aid eligibility when all of the following conditions are met:
- (A) The applicant is in receipt of a notice of eviction, including a three-day notice to pay or quit; and
- (B) The applicant has insufficient funds to pay the rent owing; and
- (C) The applicant is currently residing in his/her home.
- (2) Before the applicant chooses between the two options, the county shall inform the applicant in writing of the information and verification known to be necessary to determine eligibility for aid.
- (3) The applicant's decision shall be documented in writing and retained in the case record.
- (4) The expedited eligibility determination shall be completed and payment issued within three working days from the date of the Immediate Need payment request.

- (5) The county shall issue the Immediate Need payment no later than the third working day if the eligibility determination cannot be completed.

(h) Denial of the Immediate Need Payment Request

- (1) When eligibility for an Immediate Need payment does not exist:

(A) The Immediate Need payment request shall be denied and the applicant notified in writing in accordance with MPP 22-001a.(1). Where notification is hand-delivered, the Request for Immediate Need Payment (CA 4, 9/90) shall also be given to the applicant.

(B) The AFDC eligibility determination process shall continue unless the family fails to meet financial eligibility or deprivation standards, in which case the AFDC application and the request for an Immediate Need payment may be denied concurrently.

(C) A denial of an Immediate Need payment request shall not constitute a basis for denial of the application for aid.

- (2) The county shall deny the Immediate Need request in the following situations:

(A) The applicant is eligible for Immediate Need based on the need for food as defined in MPP 40-129(a)(3)(C) and the need for food has been met through the issuance of food stamps within one working day from the date of the Immediate Need request.

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1. In order for the request for an Immediate Need payment to be denied based on the issuance of food stamps to meet a food need, the applicant must be able to use the food stamps to feed the applicant and the applicant's family.

2. For example, a family is living in a hotel which prohibits the family from bringing food into the room. In this situation, the food stamps will not meet the family's need for food unless the food stamps can be used to purchase prepared meals at a location reasonably accessible to the hotel. If such prepared meals are not available, the request for an Immediate Need payment cannot be denied based on the issuance of food stamps.

HANDBOOK ENDS HERE

- (B) The applicant is eligible for an Immediate Need payment based on homelessness as defined in MPP 44-211.511 and a homeless assistance payment has been issued within one working day of the Immediate Need request.
- (C) The applicant is not apparently eligible in accordance with MPP 40-129(b)(1)(A).
- (D) The county has concluded, based upon all available information, that the applicant does not have an emergency situation.
- (E) The applicant is eligible for an Immediate Need payment based on an eviction as specified in MPP 40-129(a)(3)(B) and the applicant chooses an expedited eligibility determination for aid.
- (F) The need has been met through a referral to a community resource made in accordance with MPP 40-129(f).
- (G) The applicant is currently receiving AFDC or Refugee Cash Assistance.
- (H) The Immediate Need request was made by an individual being added to an existing assistance unit.
- (I) The Immediate Need request was made on behalf of a child placed in foster care.
- (J) The entire assistance unit is currently being sanctioned.
- (K) The county is unable to establish the applicant's eligibility in the following circumstances:

1. The applicant fails to cooperate as specified in MPP 40-129(b)(1)(D) or refuses to cooperate as specified in MPP 40-129(d)(1)(D).
2. The applicant fails to keep the scheduled face-to-face interview.

(i) Payment Issuance

(1) If AFDC eligibility has not been verified, the county shall issue the Immediate Need payment as follows:

(A) If the office where the Immediate Need payment request is received has in-house payment issuance capabilities for AFDC FG and U, then the Immediate Need payment shall be hand-delivered to the applicant in that office.

(B) If the office where the Immediate Need payment request is received does not have in-house payment issuance capabilities, the applicant shall be given the choice of having the Immediate Need payment hand-delivered either at another specified location or to the applicant at the office where the application was filed.

1. When an applicant chooses to receive payment at another specified location, the county shall deliver the payment no later than the next working day following the day the county received the Immediate Need request.

2. When an applicant chooses to receive payment at the office where the application was filed, the county shall deliver the payment no later than the third working day following the day the county received the Immediate Need request.

3. When the applicant fails to pick up the payment, the county shall deposit it in the mail no later than the end of the next working day.

4. The applicant's choice of payment method shall be documented in the case record.

(j) Completion of the AFDC Eligibility Determination Process

- (1) When an Immediate Need payment has been issued, the county shall verify the applicant's eligibility for aid within 15 working days from the date of receipt of the Immediate Need payment request.
- (A) The 15-working-day time frame shall apply to an Immediate Need request that was denied because the need was met by another public program or private resource.
- (B) The 15-working-day time frame shall apply to an Immediate Need payment request that was denied because the emergency situation was a lack of housing and the need was met by the issuance of a homeless assistance payment.
- (C) When the 15-working-day time frame cannot be met, the eligibility verification process <sup>shall</sup> continues.
- (2) If verification of eligibility is completed, and the applicant determined eligible, the county shall compute the aid payment in accordance with the beginning date of aid rules at MPP 44-317.13.
- (3) The amount of aid payment shall be the grant amount less any Immediate Need payment the county issued for that month.
- (4) The county shall issue the payment as soon as administratively possible.
- (5) When an Immediate Need payment has been issued, and the applicant family is determined to be ineligible for AFDC benefits, the application shall be denied.

Authority cited: Sections 10553, 10554, and 11209, Welfare and Institutions Code.

Reference: Sections 11056, 11266, and 11270, Welfare and Institutions Code; and 45 CFR 205.52, 206.10 and 233.10(a)(1)(iv).



Amend MPP 41-440.23 and .24 to read:

41-440 FEDERAL AFDC-U: UNEMPLOYED PARENT PROGRAM  
(Continued)

41-440

.2 Requirements to be Met in Order to Establish Deprivation Due to Unemployment (Federal AFDC-U) (Continued)

.23 The principal earner, whether included or excluded from the assistance unit, shall be work registered in accordance with Section 42-625. Those federally eligible principal earners who are exempt from registration only because of remoteness (Section 42-630.6) shall be registered with EDD-JS unless exempt in accordance with Section 42-630. This requirement is considered to be met on the date of application as long as it is completed by the date of authorization of aid. Those federally eligible principal earners who are exempt under any other exemption criterion in Section 42-630 do not have a work registration requirement. (Continued)

.24 The AFDC-U principal earner, who is apparently eligible for UIB (see Section 44-103.115(a)), shall apply for and accept any unemployment insurance benefits (UIB) to which he/she is entitled, when referred to EDD by the county welfare department. When the principal earner does not meet this requirement, Federal AFDC-U deprivation does not exist for the family (see Section 44-206.25). This requirement is considered to be met on the date of application as long as it is completed by the date of authorization of aid. See Section 44-103 for the requirements for pursuing UIB as potential income for principal earners who are not exempt from WIN registration.

Authority Cited: Sections 10553, ~~and~~ 10554, and 11209, Welfare and Institutions Code.

Reference: Sections 10553, ~~and~~ 10554, and 11270, Welfare and Institutions Code; and 45 CFR 233.10(a)(1), 233.100(a)(5), and 250.30(b).

Amend MPP 44-103.212 and .241 to read:

44-103 EXPLORATION OF INCOME POTENTIALS AND INCOME  
VERIFICATION (Continued)

44-103

.2 Applicant and Recipient Responsibility

.21 The applicant or recipient, including the person responsible for a child in AFDC, is responsible:  
(Continued)

.212 For taking all actions necessary to obtain unconditionally available income. For AFDC applicants, this requirement is considered to be met on the date of application as long as it is completed by the date of authorization of aid.

.22 (Continued)

.23 (Continued)

.24 Applicants and recipients who are apparently eligible for UIB:

.241 Shall apply for and accept any UIB for which EDD determines he/she is eligible. For AFDC applicants, this requirement is considered to be met on the date of application as long as it is completed by the date of authorization of aid. Any AFDC applicant or recipient who does not apply for or accept UIB for which he/she is eligible shall not be eligible for AFDC (also see Section 44-103.115), and (Continued)

Authority Cited: Sections 10553, 10554, and 11209, Welfare and Institutions Code.

Reference: Section 11270, Welfare and Institutions Code; and 45 CFR 233.10(a)(1) and 233.20(a)(3)(ix).

Amend MPP 44-211.611 to read:

44-211 SPECIAL NEEDS IN AFDC (Continued)

44-211

.6 Pregnancy Special Needs

.61 (Continued)

.611 A pregnant woman who is not included in an AU with any federally eligible persons shall be entitled to receive the pregnancy special need payment from the date of ~~medical verification of pregnancy~~ application through the month of birth, provided the pregnant woman is eligible on that date. Medical verification of pregnancy must be provided by the applicant prior to the granting of aid.

Authority Cited: Sections 10553, 10554, and 11209, Welfare and Institutions Code.

Reference: Section 11266(a)(2), Welfare and Insitutions Code.

Amend MPP 44-317 to read:

44-317 BEGINNING DATE OF AID

44-317

When the applicant is found eligible, the following are beginning dates of aid:

.1 Basic Date of Aid Determination

- .11 The beginning date of aid shall not precede the date of application. Aid shall begin on/

/111 The date of authorization of payment when authorization occurs during the month in which the applicant meets all eligibility conditions/ application, or

/112 The first of the month following the date on which the applicant meets met all eligibility conditions when authorization of payment occurs after the month in which the applicant met all eligibility conditions, whichever is later.

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(a) Example/ Following an application for aid/ an applicant met all eligibility conditions on the 15th/ verifying documents were received by the county on the 18th and authorizing action was taken on the 20th/ all in the same month/ The beginning date of aid is the 20th/

(b) Example/ Following an application for aid/ an applicant met all eligibility conditions on the 20th/ verifying documents were received by the county on the 28th and authorizing action was taken on the 2nd of the following month/ The beginning date of aid is the 1st of the 2nd month/

/113 The preliminary injunction in the Coalition of California Welfare Rights Organizations v. McMahon court order prohibits the Department and the counties from determining a beginning date of aid later than the thirtieth (30) day after the date the applicant submits a completed and signed application form if the applicant was eligible on the thirtieth (30) day or before/ (See ACV 84790/)

HANDBOOK ENDS HERE

112 For purposes of 111 above:

.1211 "The date of application" authorization of payment means the date the director of the CWD or his/her designees le/g/l/ the FW supervisor certifies the determination of eligibility of the applicant (see Section 25-300) on which the county receives a signed and dated application.

.1212 "The date on which the applicant meets met all eligibility conditions" means the date that the following conditions exist, even though verification or documentation of the condition is received at a later date:

(a) All linking and nonlinking factors of eligibility are met (see Section 40-107.3), including deprivation of parental support or care, age, citizenship or alienage status, residence, property and income eligibility, and even though verification or documentation of the eligibility condition is received at a later date. Technical conditions of eligibility, as specified in MPP 40-129(b)(1)(D)1., met at a later date are considered to be met on the date of application as long as they are completed by the date of authorization.

HANDBOOK BEGINS HERE

(a) At the time these regulations were promulgated, social security enumeration, application for unconditionally available income (including UIB), work registration of the principal earner who is exempt from GAIN due to remoteness and cooperation with the District Attorney in accordance with MPP 43-201.1 were the only technical conditions of eligibility. If any new technical conditions of eligibility are established, this handbook section will be amended.

(b) Example: A family applies for AFDC on April 3. The county schedules the face-to-face interview on April 10. At that time the county determines that on April 3 the applicant had \$1200 in a bank account, but on April 6 the bank account was down to \$900. The beginning date of aid for this family is April 6, since it was on that date that the family met the eligibility requirement for the AFDC Program.

HANDBOOK ENDS HERE

.113 The beginning date of aid for each member of the AU may vary.

HANDBOOK BEGINS HERE

(a) Example: A family applies for aid on September 1. The family consists of mother, her two children, her husband and their common child. The husband is the principal earner but does not have a connection to the labor force. He and their common child received three months of State-only AFDC-U within the last 12 months and will not be eligible to be aided again until September 16. All eligibility conditions were met as of the date of application. The beginning date of aid will be September 1 for mother and her two children and the husband and their common child will be added to the AU on September 16.

HANDBOOK ENDS HERE

(b) ALL other specified conditions of eligibility are met, including WIN/ES registration and cooperation, assignment of support, and social security number enumeration requirements.

HANDBOOK BEGINS HERE

1c) Example: On the 8th, an applicant supplies to the county all the documents necessary to determine eligibility except a social security number and the EDD registration. On the 9th, the applicant applies for a social security number and registers with EDD. The county receives the verifying documents on the 9th. The EW determines eligibility on the 9th and the EW supervisor authorizes on the 9th, all in the same month. The date eligibility conditions are met is the 8th, the date of authorizing action is the 9th, and the beginning date of aid is the 9th.

HANDBOOK ENDS HERE

113 Aid Granted on Basis of Immediate Need

When immediate need has been granted under section 40-129, the beginning date of aid is the earlier of the date the immediate need payment is authorized or the date determined by the beginning date of aid rule under 111 above.

114 For AFDC/FD, the beginning date of aid for an otherwise eligible child shall be determined as in 111 and shall not precede the date on which the authority for placement requirement in sections 43-202.4 or 43-203.3 is met.

115 When homeless assistance has been granted in accordance with MPP 44-211.3, the beginning date of aid is the date of the first homeless assistance payment.

.2 Aid Begins on a Specified Date

.21 For a pregnant woman who meets the conditions of section 44-203.26 with no other eligible children, the beginning date of aid shall be the date of medical verification of pregnancy or the date of application, whichever is later providing the pregnant woman is eligible on that date.

.22 When the mother of a newborn is being aided as a pregnant woman in accordance with MPP 44-205.26 or is receiving a pregnancy special need payment in accordance with MPP 44-211.4 in the month of birth:

.221 Aid for the otherwise eligible newborn begins on the date of birth, or the date all conditions of eligibility are met, whichever is later, even though verification or documentation of the conditions of eligibility is received at a later date; and

.222 Aid for the otherwise eligible father begins on the date of the newborn's birth when he is living with the assistance unit on that date or the date the father meets all conditions of eligibility, whichever is later, even though verification or documentation of the conditions of eligibility is received at a later date.

.3 (Continued)

.4 (Continued)

.5 (Continued)

.6 Intraprogram Status Changes

.61 Transfer from Medically Needy to AFDC Cash Grant Recipient

.611 The cash grant shall be paid from the date determined in accordance with section 44-317.12 all eligibility conditions are met. (Continued)

.7 (Continued)

.8 Previously Denied Application is Approved

.81 Aid ~~is~~ shall be paid from the date it would have been paid in accordance with the beginning date of aid regulations in effect at the time the application was denied. ~~The county shall treat the date of denial as the date of authorization for purposes of this section.~~

.9 (Continued)

.10 (Continued)

Authority cited: Sections 10553, 10554, and 11209, Welfare and Institutions Code.

Reference: Section 11056, Welfare and Institutions Code; and 45 CFR 206.10 and 233.10(a)(1).



Amend MPP 45-302.3 to read:

45-302 PAYMENT (Continued)

45-302

.3 Beginning Date of Aid

~~131 The beginning date of aid for AFDC-FC shall be determined in accordance with EAS Section 44-3171~~

.31 If the child is determined to be eligible, the beginning date of aid for AFDC-FC shall be the date of application if the child meets all eligibility conditions on that date, or the date on which the child meets all eligibility conditions, whichever is later.

.32 For purposes of .31 above:

.321 "The date of application" means the date on which the county receives a signed and dated application.

.322 "The date on which the child meets all eligibility conditions" means the date that the following conditions exist, even though verification or documentation of the condition is received at a later date:

(a) All linking and nonlinking factors of eligibility are met, including deprivation of parental support or care, age, citizenship or alienage status, residence, property and income eligibility requirements; and

(b) All other applicable conditions of eligibility including, but not limited to, authority for placement and eligible facility requirements, as specified in MPP 45-201, 45-202 or 45-203, and 45-300 are met.

.33 Other provisions pertaining to restoration of aid, intraprogram status changes and intercounty transfers are found in MPP 44-317.

Authority cited: Sections 10553, 10554, and 11209, Welfare and Institutions Code.

Reference: Section 11056, Welfare and Institutions Code.

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

**FILED**  
In the office of the Secretary of State  
of the State of California

NOV 29 1990  
At 4:31 o'clock P. M.  
MARCH FONG EU, Secretary of State  
By Michael L. Williams  
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the City of Sacramento, State of California.

Submitting Agency: Social Services

OAL File No: 90-1119-03

  
\_\_\_\_\_  
JOHN D. SMITH  
Director

11/29/90  
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